



**BEST AVAILABLE COPY**

**PATENT**  
Customer No. 22,852  
Attorney Docket No. 07579.0015-01000

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: )  
)  
Graham Edmund KELLY et al. ) Group Art Unit: 1614  
)  
Serial No.: 10/600,004 ) Examiner: Cybille DELACROIX-  
) MUIRHEID  
Filed: June 18, 2003 )  
) Confirmation No.: 6037  
For: COMPOSITIONS FOR )  
CARDIOVASCULAR AND BONE )  
TREATMENT USING )  
FORMONONETIN AND OTHER )  
ISOFLAVONES (as amended) )

**MAIL STOP AMENDMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**DECLARATION UNDER 37 C.F.R. § 1.132**

I, Graham Edmund Kelly, declare as follows:

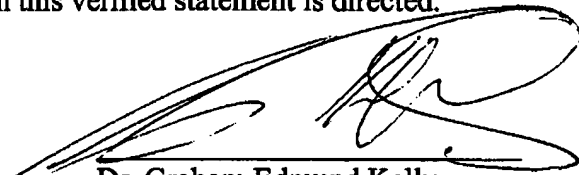
1. I am currently Executive Director of Novogen Limited, and have held this position from 1994 to the present.
2. I am making this Declaration in support of an Amendment and Response to the Office Action dated June 17, 2004 in U.S. Patent Application No. 10/600,004 ("the '004 application"), filed on June 18, 2003, in the United States Patent and Trademark Office ("PTO").
3. I am a listed co-inventor of the inventions disclosed in the '004 application.

4. I assigned all my rights, title and interest in the '004 application to Novogen Research Pty Ltd. as indicated by the Notice of Recordation of Assignment Document filed in the PTO at reel 012356, frame 0615 on December 10, 2001. To the best of my knowledge and belief, a true copy of the assignment and related paperwork is attached as Exhibit A.
5. As a listed co-inventor of the inventions disclosed in the '004 application, I was solely responsible for the inventions in claims reciting compositions of formononetin and one or more isoflavones in a therapeutically effective ratio of formononetin to other isoflavones of 15:1 to 4:1 as well as compositions, the use of such compositions for the beneficial alteration or maintenance of bone density and, in the prevention or treatment of bone fracture.
6. To the best of my knowledge and belief, my coinventor, Professor Alan Husband, was solely responsible for the inventions relating to the vascular effects of such compositions.
7. I am the sole inventor of U.S. Application No. 09/077,590 ("the '590 application"), filed June 2, 1998, in the United States Patent and Trademark Office, now U.S. Patent No. 6,340,703, which issued January 22, 2002, in the name of Graham Edmund Kelly, for TREATMENT OR PREVENTION OF OSTEOPOROSIS.
8. I assigned all my rights, title and interest in the '590 application to Novogen, Inc., as indicated by assignment duly recorded in the U.S. Patent and Trademark Office at Reel 012155, Frame 0650, on September 12, 2001. To the best of my knowledge and belief, a true copy of the assignment and related paperwork is attached as Exhibit A.
9. To the best of Assignee's knowledge and belief, Novogen Inc. is a wholly owned U.S. subsidiary of Novogen Limited, an Australian corporation. Novogen Research Pty Ltd is and has always been a wholly owned Australian subsidiary of Novogen Limited.

Accordingly, common ownership according to the requirements of CFR § 1.321 is established.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Dated: 08-12-04



Dr. Graham Edmund Kelly

JOINT INVENTION  
(U.S. Rights Only)

**ASSIGNMENT**

WHEREAS, We, the below named inventors, (hereinafter referred to as assignors, have made an invention entitled:

**CARDIOVASCULAR AND BONE TREATMENT USING ISOFLAVONES**

for which we executed an application for United States Letters Patent concurrently herewith or filed an application for United States Letters Patent on August 22, 2001 (Application No. \_\_\_\_\_); and

WHEREAS, NOVOGEN RESEARCH PTY LTD., a corporation of Australia, whose post office address is 140 Wicks Road, North Ryde, New South Wales, 2113, Australia (hereinafter referred to as assignee), is desirous of securing the entire right, title, and interest in and to this invention, the application for United States Letters Patent on this invention and the Letters Patent to be issued upon this application;

NOW THEREFORE, be it known that, for good and valuable consideration the receipt of which from assignee is hereby acknowledged, we, as assignors, have sold, assigned, transferred, and set over, and do hereby sell, assign, transfer, and set over unto the assignee, its lawful successors and assigns, our entire right, title, and interest in and to this invention and this application, and all divisions, and continuations thereof, and all Letters Patent of the United States which may be granted thereon, and all reissues thereof; and we hereby authorize and request the Commissioner of Patents and Trademarks of the United States to issue all Letters Patent for this invention to assignee, its successors and assigns, in accordance with the terms of this Assignment;

AND, WE HEREBY further covenant and agree that we will, without further consideration, communicate with assignee, its successors and assigns, any facts known to us respecting this invention and testify in any legal proceeding, sign all lawful papers when called upon to do so, execute and deliver all papers that may be necessary or desirable to perfect the title to this invention in said assignee, its successors and assigns, execute all divisional, continuation, and reissue applications, make all rightful oaths and generally do everything possible to aid assignee, its successors and assigns, to obtain and enforce proper patent protection for this invention in the United States, it being understood that any expense incident to the execution of such papers shall be borne by the assignee, its successors and assigns.

AND, WE HEREBY authorize and request the attorneys we have empowered in the Declaration and Power of Attorney in this application, to insert here in parentheses (Application No. 09/914,035, filed August 22, 2001) the filing date and application number of said application when known.

IN TESTIMONY WHEREOF, we have hereunto set our hands.

**First Assignor**

Graham Edmund KELLY  
1, 47 Coolawin Road, Northbridge,  
New South Wales, 2063, Australia

Citizenship: Australia

Signature: 

Date: 21 November 2001

**Second Assignor**

Alan James HUSBAND  
2/18 West Crescent Street, McMahon's Point,  
New South Wales, 2060, Australia

Citizenship: Australia

Signature: 

Date: 21/11/01



UNITED STATES  
PATENT AND  
TRADEMARK OFFICE

12 0005 057/RWA  
**RECEIVED**

FEBRUARY 02, 2002

PTAS

U.S. Department of Commerce For Intellectual Property and  
Director of the United States Patent and Trademark Office

Washington, DC 20231

www.uspto.gov

FINNEGAN HENDERSON FARABOW GARRETT & DUNNER, LLP - MR. ERNEST F. CHAPMAN  
1300 I STREET, N.W.  
WASHINGTON, D.C. 20005-3315

09 2002  
FINNEGAN, HENDERSON,  
FARABOW, GARRETT & DUNNER, LLP



\*101914383A\*

UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 12/10/2001

REEL/FRAME: 012356/0615  
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

KELLY, GRAHAM EDMUND

DOC DATE: 11/21/2001

ASSIGNOR:

HUSBAND, ALAN JAMES

DOC DATE: 11/21/2001

ASSIGNEE:


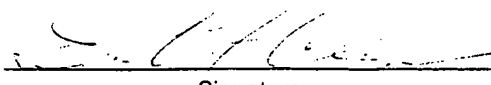
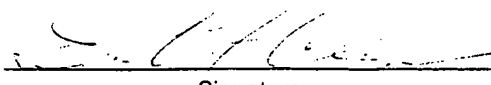
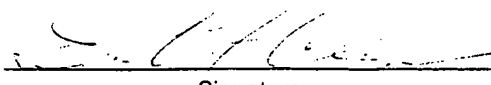
NOVOGEN RESEARCH PTY LTD.  
140 WICKS ROAD, NORTH RYDE  
NEW SOUTH WALES, 2113, AUSTRALIA

SERIAL NUMBER: 09914035  
PATENT NUMBER:

FILING DATE: 12/10/2001  
ISSUE DATE:

MARCUS KIRK, EXAMINER  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS

1/10/02

FORM PTO-595 1-31-92 12.10.01		RECEIVED DEC 10 2001 12-13-2001 		Department of Commerce Patent and Trademark Office Attorney Docket No. 07579.0015 Attorney Customer Number: 22,852				
To the Honorable Commissioner of Patents and Trademarks Please record the attached original documents.				101914383				
1. Name of conveying party(ies): 1) Graham Edmund Kelly 2) Alan James HUSBAND		2. Name and address of receiving party(ies): Name: NOVOGEN RESEARCH PTY LTD.						
Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Internal Address:						
3. Nature of conveyance: <input checked="" type="checkbox"/> Assignment <input type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input type="checkbox"/> Other:		Street Address: 140 Wicks Road, North Ryde, New South Wales, 2113, Australia City:						
<input type="checkbox"/> Other:		State:		Zip Code:				
Execution Date: November 21, 2001		Additional name(s) & Address(es) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						
4. Application number(s) or patent number(s): If this document is being filed together with a new application, the execution date of the application: <table style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;">           A. Patent Application Number(s):             09/914,035         </td> <td style="width: 50%; vertical-align: top;">           B. Patent Number(s):             Additional numbers attached? <input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No         </td> </tr> </table>						A. Patent Application Number(s):  09/914,035	B. Patent Number(s):  Additional numbers attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
A. Patent Application Number(s):  09/914,035	B. Patent Number(s):  Additional numbers attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No							
5. Name and address of party to whom correspondence concerning document should be mailed:  Name: Mr. Ernest F. Chapman  Internal Address: FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P. Street Address: 1300 I Street, N.W. City: Washington, D.C. State:                      Zip: 20005-3315			6. Total number of applications and registrations involved: 1  7. Total fee (37 CFR 3.41): \$40 <input checked="" type="checkbox"/> Enclosed (Please charge deficiency to deposit account) <input type="checkbox"/> Authorized to be charged to deposit account					
8. Deposit Account No.: 06-0916			9. Statement and signature.  To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.  <table style="width: 100%;"> <tr> <td style="width: 40%;">           Ernest F. Chapman            Reg. No. 25,961         </td> <td style="width: 30%; text-align: center;">             Signature         </td> <td style="width: 30%; text-align: center;">           December 10, 2001            Date         </td> </tr> </table>			Ernest F. Chapman Reg. No. 25,961	 Signature	December 10, 2001 Date
Ernest F. Chapman Reg. No. 25,961	 Signature	December 10, 2001 Date						
Total number of pages including cover sheet, attachments and documents: 3								

12/12/2001 TDI A21 00000030 09914035

01 FC:581

40.00 0P

# ASSIGNMENT

WHEREAS GRAHAM EDMUND KELLY, herein referred to ASSIGNOR, is a named inventor of an invention entitled "TREATMENT OR PREVENTION OF MENOPAUSAL SYMPTOMS AND OSTEOPOROSIS", described and claimed in International Application PCT/AU98/00313, filed May 1, 1998.

WHEREAS, NOVOGEN INC., a company organized and existing under and by virtue of the laws of , and engaged in business at 1013 Center Road, Wilmington, Delaware 19805, hereinafter referred to as ASSIGNEE, is desirous of acquiring the said invention and any and all applications for Letters Patent and any and all Letters Patent of the United States and foreign countries which may be issued therefor;

NOW THEREFORE THIS IS TO WITNESS that in consideration of the sum of One Dollar (\$1.00) paid to ASSIGNOR by ASSIGNEE, the receipt of which is hereby acknowledged, and for other good and valuable consideration, ASSIGNOR has sold, assigned and set over and hereby does sell, assign and set over, unto assignee, its successors and assigns, his or her entire right, title and interest for, to and within the United States and all foreign countries, in and to the aforesaid invention, and in and to any and all Letters Patent which may be issued therefor in the United States and in any and all foreign countries.

And ASSIGNOR hereby authorizes and requests the Commissioner of Patents and Trademarks to issue any and all Letters Patent of the United States to ASSIGNEE, its successors and assigns, as the owner of all right, title and interest therein.

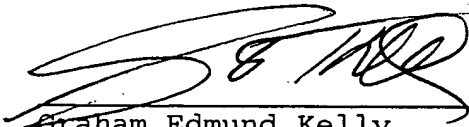
And for said consideration, it is hereby covenanted and agreed that at the request and expense of ASSIGNEE, its successors and assigns, ASSIGNOR will execute any further papers and do such other acts and things as may be necessary and proper to permit ASSIGNEE, its successors and assigns, to procure Letters Patent for said invention in the United States and in such foreign countries as ASSIGNEE, its successors and assigns may elect, and vest the full title thereto in ASSIGNEE, its successors and assigns.

IN WITNESS WHEREOF, this assignment has been executed on the day and month indicated below.

Date

Signature

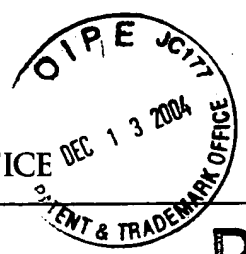
1st June 1998

  
Graham Edmund Kelly





UNITED STATES  
PATENT AND  
TRADEMARK OFFICE



CEU-SBE-RW

NOVEMBER 15, 2001

RECEIVED

Chief Financial Officer and Chief Administrative Officer  
Washington, DC 20231  
www.uspto.gov

FINNEGAN, HENDERSON, FARABOW ET AL  
JEAN B. FORDIS  
1300 I STREET, N.W.  
WASHINGTON, D.C. 20005-3315

NOV 27 2001



\*101844968A\*

FINNEGAN, HENDERSON,  
FARABOW, GARRETT & DUNNER, LLP.

UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

7574-6

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

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RECORDATION DATE: 09/12/2001

REEL/FRAME: 012155/0650  
NUMBER OF PAGES: 2

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:  
KELLY, GRAHAM EDMUND

DOC DATE: 06/01/1998

ASSIGNEE:  
NOVOGEN, INC.  
1013 CENTER ROAD  
WILMINGTON, DELAWARE 19805

SERIAL NUMBER: 09077590  
PATENT NUMBER:

FILING DATE: 06/02/1998  
ISSUE DATE:

SAUNDRA BALLENGER, EXAMINER  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS

Dh71  
11-229  
WZ

FORM PTO-1595  
1-31-92

SEP 12 2001

09-17-2001



U.S. Department of Commerce  
Patent and Trademark Office  
Customer Number 22,852  
Attorney Docket No. 07579.0006-00000

101844968

BOX ASSIGNMENTS

To the Honorable Commissioner of Patents and Trademarks  
Please record the attached original documents or copy thereon.

1. Name of conveying party: Graham Edmund KELLY		2. Name and address of receiving party: Name: Novogen, Inc.	
Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Internal Address:	
3. Nature of conveyance:		Street Address: 1013 Center Road	
<input checked="" type="checkbox"/> Assignment	<input type="checkbox"/> Merger	City: Wilmington	
<input type="checkbox"/> Security Agreement	<input type="checkbox"/> Change of Name	State: Delaware	Zip Code: 19805
<input type="checkbox"/> Other:		Additional name(s) & Address(es) attached?	
Execution Dates: June 1, 1998		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

4. Application number(s) or patent number(s): If this document is being filed together with a new application, the execution date of the application:	
A. Patent Application Numbers: U.S. Patent Application No. 09/077,590, filed June 2, 1998	B. Patent Number(s):
Additional numbers attached?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

5. Name and address of party to whom correspondence concerning document should be mailed:  Name: Jean B. Fordis		6. Total number of applications and registrations involved: 1
Internal Address: FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.		7. Total fee (37 CFR 3.41): \$40  <input checked="" type="checkbox"/> Enclosed (Please charge deficiency to deposit account)  <input type="checkbox"/> Authorized to be charged to deposit account
Street Address: 1300 I Street, N.W.		
City: Washington, D.C.		
State: _____	Zip: 20005-3315	8. Deposit Account No.: 06-0916

9. Statement and signature.  
To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Jean B. Fordis  
Reg. No. 32,984

Jean B. Fordis  
Signature

September 10, 2001  
Date

09/14/2001 DBYRNE 00000217 09077590  
01 FC:581

Total number of pages including cover sheet, attachments and documents: 2



PATENT  
Customer No. 22,852  
Attorney Docket No. 07579.0015-01000

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Graham Edmund KELLY et al. ) Group Art Unit: 1614  
Serial No.: 10/600,004 ) Examiner: Cybille DELACROIX-  
Filed: June 18, 2003 ) MUIRHEID  
For: COMPOSITIONS FOR ) Confirmation No.: 6037  
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MAIL STOP AMENDMENT  
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Sir:

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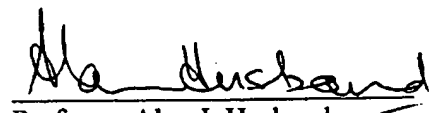
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1. I am currently Research Director of Novogen Limited, and have held this position from April 1996 to the present.
2. I am making this Declaration in support of an Amendment and Response to the Office Action dated June 17, 2004 in U.S. Patent Application No. 10/600,004 ("the '004 application"), filed on June 18, 2003, in the United States Patent and Trademark Office ("PTO").
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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Dated: 11<sup>th</sup> NOVEMBER, 2004.

  
Professor Alan J. Husband

JOINT INVENTION  
(U.S. Rights Only)

**ASSIGNMENT**

WHEREAS, We, the below named inventors, (hereinafter referred to as assignors, have made an invention entitled:

**CARDIOVASCULAR AND BONE TREATMENT USING ISOFLAVONES**

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NOW THEREFORE, be it known that, for good and valuable consideration the receipt of which from assignee is hereby acknowledged, we, as assignors, have sold, assigned, transferred, and set over, and do hereby sell, assign, transfer, and set over unto the assignee, its lawful successors and assigns, our entire right, title, and interest in and to this invention and this application, and all divisions, and continuations thereof, and all Letters Patent of the United States which may be granted thereon, and all reissues thereof; and we hereby authorize and request the Commissioner of Patents and Trademarks of the United States to issue all Letters Patent for this invention to assignee, its successors and assigns, in accordance with the terms of this Assignment;

AND, WE HEREBY further covenant and agree that we will, without further consideration, communicate with assignee, its successors and assigns, any facts known to us respecting this invention and testify in any legal proceeding, sign all lawful papers when called upon to do so, execute and deliver all papers that may be necessary or desirable to perfect the title to this invention in said assignee, its successors and assigns, execute all divisional, continuation, and reissue applications, make all rightful oaths and generally do everything possible to aid assignee, its successors and assigns, to obtain and enforce proper patent protection for this invention in the United States, it being understood that any expense incident to the execution of such papers shall be borne by the assignee, its successors and assigns.

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**First Assignor**

Graham Edmund KELLY  
1, 47 Coolawin Road, Northbridge,  
New South Wales, 2063, Australia

Citizenship: Australia

Signature: 

Date: 21 November 2001

**Second Assignor**

Alan James HUSBAND  
2/18 West Crescent Street, McMahon's Point,  
New South Wales, 2060, Australia

Citizenship: Australia

Signature: 

Date: 21/11/01



UNITED STATES  
PATENT AND  
TRADEMARK OFFICE

12 0005 057/RWM  
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FEBRUARY 02, 2002

PTAS

FINNEGAN HENDERSON FARABOW GARRETT &  
DUNNER, LLP - MR. ERNEST F. CHAPMAN  
1300 I STREET, N.W.  
WASHINGTON, D.C. 20005-3315

United States Department of Commerce For Intellectual Property and  
Director of the United States Patent and Trademark Office  
Washington, DC 20231  
www.uspto.gov

07 2002  
FINNEGAN, HENDERSON,  
FARABOW, GARRETT & DUNNER, LLP



\*101914383A\*

UNITED STATES PATENT AND TRADEMARK OFFICE  
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ASSIGNOR:

KELLY, GRAHAM EDMUND

DOC DATE: 11/21/2001

ASSIGNOR:

HUSBAND, ALAN JAMES

DOC DATE: 11/21/2001

ASSIGNEE:


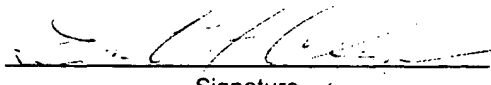
NOVOGEN RESEARCH PTY LTD.  
140 WICKS ROAD, NORTH RYDE  
NEW SOUTH WALES, 2113, AUSTRALIA

SERIAL NUMBER: 09914035  
PATENT NUMBER:

FILING DATE: 12/10/2001  
ISSUE DATE:

MARCUS KIRK, EXAMINER  
ASSIGNMENT DIVISION  
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FORM PTO-595 1-31-92 12.10.01		12-13-2001 DEC 10 2001 		Department of Commerce Patent and Trademark Office Attorney Docket No. 07579.0015 Attorney Customer Number: 22,852	
To the Honorable Commissioner of Patents and Trademarks Please record the attached original documents.				101914383	
1. Name of conveying party(ies): 1) Graham Edmund Kelly 2) Alan James HUSBAND		2. Name and address of receiving party(ies): Name: NOVOGEN RESEARCH PTY LTD.			
Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Internal Address:			
3. Nature of conveyance: <input checked="" type="checkbox"/> Assignment <input type="checkbox"/> Merger		Street Address: 140 Wicks Road, North Ryde, New South Wales, 2113, Australia			
<input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name		City:		State:	
<input type="checkbox"/> Other:		Zip Code:		Additional name(s) & Address(es) attached?	
Execution Date: November 21, 2001		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
4. Application number(s) or patent number(s): If this document is being filed together with a new application, the execution date of the application:					
A. Patent Application Number(s): 09/914,035			B. Patent Number(s):		
Additional numbers attached?			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
5. Name and address of party to whom correspondence concerning document should be mailed: Name: Mr. Ernest F. Chapman			6. Total number of applications and registrations involved: 1		
Internal Address: FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.			7. Total fee (37 CFR 3.41): \$40		
Street Address: 1300 I Street, N.W.			<input checked="" type="checkbox"/> Enclosed (Please charge deficiency to deposit account)		
City: Washington, D.C.			<input type="checkbox"/> Authorized to be charged to deposit account		
State: Zip: 20005-3315			8. Deposit Account No.: 06-0916		
9. Statement and signature. To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.					
Ernest F. Chapman Reg. No. 25,961		 Signature		December 10, 2001 Date	
Total number of pages including cover sheet, attachments and documents: 3					

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4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(a), (b), (c), 28 U.S.C. § 1400(b), and E.D.Mo. L.R. 2.07(B)(3) and (4).

### **THE PARTIES**

5. Plaintiff Solae, LLC (“Solae” or “Plaintiff”) is a Delaware limited liability corporation, having a principal place of business in St. Louis, Missouri.
6. Upon information and belief, defendant Archer Daniels Midland Company (“ADM”) is a corporation organized under the law of Delaware, having its principal place of business at 4666 Faries Parkway, Decatur, Illinois 62526.
7. Upon information and belief, defendant Amerifit Nutrition, Inc. (“Amerifit”) is a corporation organized under the law of Delaware, having its principal place of business at 166 Highland Park Drive, Bloomfield, Connecticut 06002.

### **BACKGROUND**

8. St. Louis-based Solae is a leader in the research, manufacturing and marketing of high-quality, soy-based ingredients and ingredient systems.
9. There are three principal classes of phyto-oestrogens: isoflavones, lignans, and coumestans.
10. Isoflavones are bioactive chemicals found naturally in plants. Soy isoflavones exist in three main families: genistein, daidzein and glycitein. Four chemical forms of isoflavones known as aglucones, glycosides, malonyl conjugates, and acetyl

conjugates are found within each family. Soybeans are the major food source of the naturally-occurring isoflavones genistein and daidzein.

11. In the production of commercial products such as soy protein concentrates, the focus has been to remove soy isoflavone compounds since they are associated with the bitter flavor of soybeans. In a conventional process for the production of a soy protein concentrate, extracted material containing soy isoflavones, is typically discarded. As a result, the extract from a conventional process is an inexpensive and desirable source of soy isoflavones.
12. Recent clinical research suggests that isoflavones contained in vegetable protein materials such as soybeans, are bioactive compounds that may provide various health benefits, including the reduction of cardiovascular risk factors, the amelioration of conditions caused by reduced levels of endogenous estrogen in women (*e.g.*, menopause or premenstrual syndrome), and the inhibition of certain human cancer cells (*e.g.*, breast and prostate cancer cells).
13. U.S. Patent No. 6,642,212, issued November 4, 2003 (copy attached as Exhibit 1) (“the ‘212 patent”) entitled “Health Supplements Containing Phyto-Oestrogens, Analogues Or Metabolites Thereof,” names Graham Kelly as inventor and lists on its face Novogen Research Pty. Limited (New South Wales, Australia) as assignee.
14. Solae is the sole and exclusive licensee of the ‘212 patent for products containing soy-derived isoflavones. Solae was formerly known as Protein Technologies International, Inc. (“PTI”). On or about March 28, 2003, PTI was renamed and reincorporated as Solae.

15. Upon information and belief, ADM manufactures and markets a product that infringes at least one claim of the '212 patent, which product is known as Novasoy® (“Novasoy”) and is a powdered compound extracted from soybeans containing naturally-occurring isoflavones.
16. Upon information and belief, ADM's Novasoy contains at least the soy isoflavones daidzein, genistein, and glycitein, their glycosides, and acetyl and malonyol esters.
17. Upon information and belief, ADM's Novasoy isoflavone material is marketed and sold by ADM in this district and throughout the United States.
18. Upon information and belief, ADM's Novasoy isoflavone material is marketed and sold by ADM to manufacturers for incorporation into health and/or dietary supplements that infringe at least one claim of the '212 patent and are marketed and sold in this district and throughout the United States.
19. Upon information and belief, Amerifit manufactures and markets a product that infringes at least one claim of the '212 patent, which product is known as Estroven® (“Estroven”) and is a health supplement containing Novasoy isoflavone material provided by ADM.
20. Upon information and belief, Amerifit's Estroven contains at least the soy isoflavones daidzein, genistein, and glycitein, their glycosides, and acetyl and malonyol esters.

21. Upon information and belief, Amerifit's Estroven is marketed and sold by Amerifit in this district and throughout the United States for alleviating symptoms associated with menopause.
22. U.S. Patent No. 6,664,382, issued December 16, 2003 (copy attached as Exhibit 2) (the '382 patent") entitled "Recovery of Isoflavones from Soy Molasses," names Doyle Waggle and Barbara Bryan as inventors and lists as assignee Solae, LLC ("Solae").
23. Upon information and belief, ADM manufactures and markets a product that infringes at least one claim of the '382 patent, which product is known as Novasoy® ("Novasoy") and is a powdered compound extracted from soybeans containing naturally-occurring isoflavones.
24. Upon information and belief, ADM's Novasoy isoflavone material is marketed and sold by ADM to manufacturers for incorporation into health and/or dietary supplements that infringe at least one claim of the '382 patent and are marketed and sold in this district and throughout the United States.
25. Upon information and belief, Amerifit manufactures and markets a product that infringes at least one claim of the '382 patent, which product is known as Estroven® ("Estroven") and is a health supplement containing Novasoy isoflavone material provided by ADM.
26. U.S. Patent No. 6,680,381 issued January 20, 2004 (copy attached as Exhibit 3) ("the '381 patent") entitled "Recovery of Isoflavones from Soy Molasses," names Doyle H.

Waggle and Barbara A. Bryan as inventors and lists on its face Solae, LLC (St. Louis, MO) as assignee.

27. Upon information and belief, ADM manufactures and markets a product that infringes at least one claim of the '381 patent, which product is known as Novasoy® ("Novasoy") and is a powdered compound extracted from soybeans containing naturally-occurring isoflavones.
28. Upon information and belief, ADM's Novasoy isoflavone material is marketed and sold by ADM to manufacturers for incorporation into health and/or dietary supplements that infringe at least one claim of the '381 patent and are marketed and sold in this district and throughout the United States.
29. Upon information and belief, Amerifit manufactures and markets a product that infringes at least one claim of the '381 patent, which product is known as Estroven® ("Estroven") and is a health supplement containing Novasoy isoflavone material provided by ADM.
30. U.S. Patent No. 6,706,292 issued March 16, 2004 (copy attached as Exhibit 4) ("the '292 patent") entitled "Recovery of Isoflavones from Soy Molasses," names Doyle H. Waggle and Barbara A. Bryan as inventors and lists on its face Solae, LLC (St. Louis, MO) as assignee.
31. Upon information and belief, ADM manufactures and markets a product that infringes at least one claim of the '292 patent, which product is known as Novasoy®

("Novasoy") and is a powdered compound extracted from soybeans containing naturally-occurring isoflavones.

32. Upon information and belief, ADM's Novasoy isoflavone material is marketed and sold by ADM to manufacturers for incorporation into health and/or dietary supplements that infringe at least one claim of the '292 patent and are marketed and sold in this district and throughout the United States.

33. Upon information and belief, Amerifit manufactures and markets a product that infringes at least one claim of the '292 patent, which product is known as Estroven<sup>®</sup> ("Estroven") and is a health supplement containing Novasoy isoflavone material provided by ADM.

### **FIRST CAUSE OF ACTION**

### **PATENT INFRINGEMENT**

34. Solae here repeats and incorporates by reference all the allegations of paragraphs 1 through 33 above.

35. Upon information and belief, ADM has directly and/or contributorily infringed at least one claim of the '212 patent in connection with making, using, offering to sell, selling, and/or importation of Novasoy. ADM will continue such infringing activities, to the irreparable injury of Solae, unless enjoined by the Court.

36. Upon information and belief, ADM has knowingly induced others to infringe at least one claim of the '212 patent in connection with making, using, offering to sell,

selling, and/or importation of Novasoy. ADM will continue such infringing activities, to the irreparable injury of Solae, unless enjoined by the Court.

37. Upon information and belief, Amerifit has directly and contributorily infringed at least one claim of the '212 patent in connection with making, using, offering to sell, selling, and/or importation of Estroven. Amerifit will continue such infringing activities, to the irreparable injury of Solae, unless enjoined by the Court.

38. Upon information and belief, Amerifit has knowingly induced others to infringe at least one claim of the '212 patent in connection with making, using, offering to sell, selling, and/or importation of Estroven. Amerifit will continue such infringing activities, to the irreparable injury of Solae, unless enjoined by the Court.

39. Upon information and belief, ADM has directly and/or contributorily infringed at least one claim of the '382 patent in connection with making, using, offering to sell, selling, and/or importation of Novasoy. ADM will continue such infringing activities, to the irreparable injury of Solae, unless enjoined by the Court.

40. Upon information and belief, ADM has knowingly induced others to infringe at least one claim of the '382 patent in connection with making, using, offering to sell, selling, and/or importation of Novasoy. ADM will continue such infringing activities, to the irreparable injury of Solae, unless enjoined by the Court.

41. Upon information and belief, Amerifit has directly and contributorily infringed at least one claim of the '382 patent in connection with making, using, offering to sell,



selling, and/or importation of Estroven. Amerifit will continue such infringing activities, to the irreparable injury of Solae, unless enjoined by the Court.

42. Upon information and belief, Amerifit has knowingly induced others to infringe at least one claim of the '382 patent in connection with making, using, offering to sell, selling, and/or importation of Estroven. Amerifit will continue such infringing activities, to the irreparable injury of Solae, unless enjoined by the Court.

43. Upon information and belief, ADM has directly and/or contributorily infringed at least one claim of the '381 patent in connection with making, using, offering to sell, selling, and/or importation of Novasoy. ADM will continue such infringing activities, to the irreparable injury of Solae, unless enjoined by the Court.

44. Upon information and belief, ADM has knowingly induced others to infringe at least one claim of the '381 patent in connection with making, using, offering to sell, selling, and/or importation of Novasoy. ADM will continue such infringing activities, to the irreparable injury of Solae, unless enjoined by the Court.

45. Upon information and belief, Amerifit has directly and contributorily infringed at least one claim of the '381 patent in connection with making, using, offering to sell, selling, and/or importation of Estroven. Amerifit will continue such infringing activities, to the irreparable injury of Solae, unless enjoined by the Court.

46. Upon information and belief, Amerifit has knowingly induced others to infringe at least one claim of the '381 patent in connection with making, using, offering to sell,

selling, and/or importation of Estroven. Amerifit will continue such infringing activities, to the irreparable injury of Solae, unless enjoined by the Court.

47. Upon information and belief, ADM has directly and/or contributorily infringed at least one claim of the '292 patent in connection with making, using, offering to sell, selling, and/or importation of Novasoy. ADM will continue such infringing activities, to the irreparable injury of Solae, unless enjoined by the Court.

48. Upon information and belief, ADM has knowingly induced others to infringe at least one claim of the '292 patent in connection with making, using, offering to sell, selling, and/or importation of Novasoy. ADM will continue such infringing activities, to the irreparable injury of Solae, unless enjoined by the Court.

49. Upon information and belief, Amerifit has directly and contributorily infringed at least one claim of the '292 patent in connection with making, using, offering to sell, selling, and/or importation of Estroven. Amerifit will continue such infringing activities, to the irreparable injury of Solae, unless enjoined by the Court.

50. Upon information and belief, Amerifit has knowingly induced others to infringe at least one claim of the '292 patent in connection with making, using, offering to sell, selling, and/or importation of Estroven. Amerifit will continue such infringing activities, to the irreparable injury of Solae, unless enjoined by the Court.

### **REQUEST FOR RELIEF**

WHEREFORE, Solae prays that this Court enter judgment in its favor against the Defendants and grant the following relief:

- A. Permanently enjoin Defendants, their agents, successors and assigns and all persons acting on their behalf or within their control, from making, using, selling, or offering to sell, importing or otherwise engaging in acts of infringement of the '212 patent;
- B. Permanently enjoin Defendants, their agents, successors and assigns and all persons acting on their behalf or within their control, from making, using, selling, or offering to sell, importing or otherwise engaging in acts of infringement of the '382 patent;
- C. Permanently enjoin Defendants, their agents, successors and assigns and all persons acting on their behalf or within their control, from making, using, selling, or offering to sell, importing or otherwise engaging in acts of infringement of the '381 patent;
- D. Permanently enjoin Defendants, their agents, successors and assigns and all persons acting on their behalf or within their control, from making, using, selling, or offering to sell, importing or otherwise engaging in acts of infringement of the '292 patent;
- E. Award Plaintiff damages caused by Defendants' patent infringement as determined by the jury in this action;
- F. Enter an order declaring this an exceptional case and awarding Plaintiff interest, costs and disbursements in this action, including reasonable attorneys' fees pursuant to 35 U.S.C. § 285; and

G. Award Plaintiff such further relief as the Court may deem just and proper.

**DEMAND FOR A JURY TRIAL**

Plaintiff hereby demands trial by jury of all issues so triable in this action.

Dated: April 26, 2004.

Respectfully submitted,

**LEWIS, RICE & FINGERSH, L.C.**

By: /s/ C. David Goerisch  
Andrew Rothschild, #4214  
C. David Goerisch, #77207  
Michael J. Hickey, #101931

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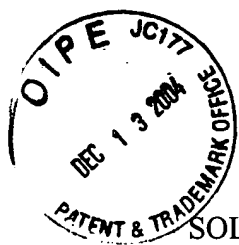
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 26th day of April, 2004, a true and accurate copy of the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon the following persons:

Stephen H. Rovak  
Michael T. Marrah  
Kirill Y. Abramov  
Sonnenschein, Nath & Rosenthal LLP  
One Metropolitan Square, Suite 3000  
St. Louis, MO 63102

David K.S. Cornwell  
Timothy J. Shea, Jr.  
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1100 New York Avenue, N.W.  
Washington, DC 20005

/s/ C. David Goerisch



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

SOLAE, L.L.C.,

Plaintiff,

v.

ARCHER DANIELS MIDLAND  
COMPANY

and

AMERIFIT NUTRITION, INC.

Defendants.

Civil Action No. 4:03CV00732 HEA

JURY TRIAL DEMANDED

**DEFENDANT, ARCHER DANIELS MIDLAND COMPANY'S, ANSWER AND  
COUNTER CLAIMS TO PLAINTIFF'S THIRD SUPPLEMENTAL COMPLAINT**

Defendant, ARCHER DANIELS MIDLAND COMPANY ("ADM"), by and through its attorneys, hereby answers the claims of the Plaintiff, SOLAE, L.L.C., ("Solae"), presented in Plaintiff's Third Supplemental Complaint for Patent Infringement and Jury Demand ("Complaint"), as follows:

1. ADM does not have sufficient information to either admit or deny the allegations, contained in paragraph one, concerning the legal basis for this Complaint, and therefore denies same and leaves Plaintiff to its proof thereof.

2. ADM admits that it is subject to personal jurisdiction in this district. ADM denies that it has committed infringing acts in this district.

3. ADM admits that this Court has exclusive jurisdiction over the subject matter of this action.

4. ADM admits that venue is proper in this Court.

5. ADM does not have sufficient information to either admit or deny the allegations, contained in paragraph five, concerning the place of incorporation and principal place of business of Solae set forth therein, and therefore denies same and leaves Plaintiff to its proof thereof.

6. ADM admits the allegations contained in paragraph six of the Complaint.

7. ADM admits the allegations contained in paragraph seven of the Complaint.

8. ADM does not have sufficient information to either admit or deny the allegations, contained in paragraph eight and therefore denies same and leaves Plaintiff to its proof thereof.

9. ADM does not have sufficient information to either admit or deny the allegations, contained in paragraph nine and therefore denies same and leaves Plaintiff to its proof thereof.

10. ADM does not have sufficient information to either admit or deny the allegations, contained in paragraph ten and therefore denies same and leaves Plaintiff to its proof thereof.

11. ADM does not have sufficient information to either admit or deny the allegations, contained in paragraph eleven and therefore denies same and leaves Plaintiff to its proof thereof.

12. ADM does not have sufficient information to either admit or deny the allegations, contained in paragraph twelve and therefore denies same and leaves Plaintiff to its proof thereof.

13. ADM states that the document speaks for itself.

14. ADM denies the allegations contained in paragraph fourteen of the Complaint.

15. ADM denies the allegations contained in paragraph fifteen of the Complaint.

16. To the extent paragraph sixteen of the Complaint alleges that ADM's Novasoy contains more than trace amounts of each of the soy isoflavones daidzein, genistein, and glycitein, their glucosides, and acetyl and malonyl esters, ADM denies the allegations contained in paragraph sixteen of the Complaint.

17. ADM admits the allegations contained in paragraph seventeen of the Complaint.

18. ADM denies the allegations contained in paragraph eighteen of the Complaint.

19. ADM denies the allegations contained in paragraph nineteen of the Complaint.

20. To the extent paragraph twenty of the Complaint alleges that Amerifit's Estroven contains more than trace amounts of each of the soy isoflavones daidzein, genistein, and glycitein, their glucosides, and acetyl and malonyl esters, ADM denies the allegations contained in paragraph twenty of the Complaint.

21. ADM admits the allegations contained in paragraph twenty-one of the Complaint.

22. ADM states that the document speaks for itself.

23. ADM denies the allegations contained in paragraph twenty-three of the Complaint.

24. ADM denies the allegations contained in paragraph twenty-four of the Complaint.

25. ADM denies the allegations contained in paragraph twenty-five of the Complaint.

26. ADM states that the document speaks for itself.

27. ADM denies the allegations contained in paragraph twenty-seven of the Complaint.

28. ADM denies the allegations contained in paragraph twenty-eight of the Complaint.

29. ADM denies the allegations contained in paragraph twenty-nine of the Complaint.

30. ADM states that the document speaks for itself.

31. ADM denies the allegations contained in paragraph thirty-one of the Complaint.

32. ADM denies the allegations contained in paragraph thirty-two of the Complaint.

33. ADM denies the allegations contained in paragraph thirty-three of the Complaint.

34. ADM repeats the answers set forth above in paragraphs 1-33.

35. ADM denies the allegations contained in paragraph thirty-five of the Complaint.

36. ADM denies the allegations contained in paragraph thirty-six of the Complaint.

37. ADM denies the allegations contained in paragraph thirty-seven of the Complaint.

38. ADM denies the allegations contained in paragraph thirty-eight of the Complaint.

39. ADM denies the allegations contained in paragraph thirty-nine of the Complaint.

40. ADM denies the allegations contained in paragraph forty of the Complaint.



41. ADM denies the allegations contained in paragraph forty-one of the Complaint.
42. ADM denies the allegations contained in paragraph forty-two of the Complaint.
43. ADM denies the allegations contained in paragraph forty-three of the Complaint.
44. ADM denies the allegations contained in paragraph forty-four of the Complaint.
45. ADM denies the allegations contained in paragraph forty-five of the Complaint.
46. ADM denies the allegations contained in paragraph forty-six of the Complaint.
47. ADM denies the allegations contained in paragraph forty-seven of the Complaint.
48. ADM denies the allegations contained in paragraph forty-eight of the Complaint.
49. ADM denies the allegations contained in paragraph forty-nine of the Complaint.
50. ADM denies the allegations contained in paragraph fifty of the Complaint.

### **Affirmative Defenses**

#### **Invalidity**

51. Each claim of the '212 patent is invalid under 35 U.S.C. § 102 as lacking novelty; is invalid under 35 U.S.C. § 103 because the differences between the subject matter claimed and the prior art are such that it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains; and/or is invalid for failure to comply with the requirements of 35 U.S.C. § 112.

52. Each claim of the '382 patent is invalid under 35 U.S.C. § 102 as lacking novelty; is invalid under 35 U.S.C. § 103 because the differences between the subject matter claimed and the prior art are such that it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains; and/or is invalid for failure to comply with the requirements of 35 U.S.C. § 112.

53. Each claim of the '381 patent is invalid under 35 U.S.C. § 102 as lacking novelty; is invalid under 35 U.S.C. § 103 because the differences between the subject matter claimed and the prior art are such that it would have been obvious at the time the invention was made to a

person having ordinary skill in the art to which the subject matter pertains; and/or is invalid for failure to comply with the requirements of 35 U.S.C. § 112.

54. Each claim of the '292 patent is invalid under 35 U.S.C. § 102 as lacking novelty; is invalid under 35 U.S.C. § 103 because the differences between the subject matter claimed and the prior art are such that it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains; and/or is invalid for failure to comply with the requirements of 35 U.S.C. § 112.

#### **Non-Infringement**

55. ADM does not now infringe, nor has it ever infringed, the '212 patent.

56. ADM does not now infringe, nor has it ever infringed, the '382 patent.

57. ADM does not now infringe, nor has it ever infringed, the '381 patent.

58. ADM does not now infringe, nor has it ever infringed, the '292 patent.

#### **Counter-Claim**

#### **Declaratory Judgment**

59. On information and belief, Plaintiff and counterclaim Defendant, Solae, L.L.C., is a Delaware limited liability corporation, having a principal place of business in St. Louis, Missouri.

60. Defendant and counterclaim Plaintiff, Archer Daniels Midland Company, is a corporation organized under the laws of the state of Delaware with its principal place of business at 4666 Fairies Parkway, Decatur, Illinois 62526.

61. This is an action for declaratory judgment of invalidity, unenforceability and non-infringement of U.S. Patent No. 6,642,212 ("the '212 patent"); U.S. Patent No. 6,664,382 ("the '382 patent"); U.S. Patent No. 6,680,381 ("the '381 patent"); and U.S. Patent No. 6,706,292 ("the '292 patent") under the patent laws of the United States, Title 35 United States Code.

62. Exclusive jurisdiction over these counterclaims is conferred upon this Court pursuant to 28 U.S.C. § 1338(a). The relief of declaratory judgment is proper under 28 U.S.C. § 2201.

63. A true and actual controversy exists regarding the validity, enforceability, and non-infringement of the claims of the '212 patent, the '382 patent, the '381 patent, and the '292 patent asserted by Solae against ADM:

64. On April 26, 2004, Plaintiff filed a Third Amended Complaint (Civil Action Number 03 CV 01595 RWS, now Civil Action No. 4:03CV00732 HEA) against ADM alleging, *inter alia*, that certain products made, used and/or sold by ADM infringe the '212 patent, the '382 patent, the '381 patent and/or the '292 patent.

65. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and (c).

#### **COUNT I - Invalidity of the '212 patent**

66. ADM realleges the allegations set forth above in counterclaim paragraphs 59-65.

67. Each claim of the '212 patent is invalid under 35 U.S.C. § 102 as lacking novelty, is invalid under 35 U.S.C. § 103 because the differences between the subject matter claimed and the prior art are such that it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains; and/or is invalid for failure to comply with the requirements of 35 U.S.C. § 112.

#### **COUNT II - Invalidity of the '382 patent**

68. ADM realleges the allegations set forth above in counterclaim paragraphs 59-65 and 67.

69. Each claim of the '382 patent is invalid under 35 U.S.C. § 102 as lacking novelty, is invalid under 35 U.S.C. § 103 because the differences between the subject matter claimed and the prior art are such that it would have been obvious at the time the invention was made to a

person having ordinary skill in the art to which the subject matter pertains; and/or is invalid for failure to comply with the requirements of 35 U.S.C. § 112.

**COUNT III - Invalidity of the '381 patent**

70. ADM realleges the allegations set forth above in counterclaim paragraphs 59-65, 67 and 69.

71. Each claim of the '381 patent is invalid under 35 U.S.C. § 102 as lacking novelty; is invalid under 35 U.S.C. § 103 because the differences between the subject matter claimed and the prior art are such that it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains; and/or is invalid for failure to comply with the requirements of 35 U.S.C. § 112.

**COUNT IV - Invalidity of the '292 patent**

72. ADM realleges the allegations set forth above in counterclaim paragraphs 59-65, 67, 69 and 71.

73. Each claim of the '292 patent is invalid under 35 U.S.C. § 102 as lacking novelty; is invalid under 35 U.S.C. § 103 because the differences between the subject matter claimed and the prior art are such that it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains; and/or is invalid for failure to comply with the requirements of 35 U.S.C. § 112.

**COUNT V - Non-Infringement of the '212 patent**

74. ADM realleges the allegations set forth above in counterclaim paragraphs 59-65, 67, 69, 71 and 73.

75. ADM does not now infringe, nor has it ever infringed, the '212 patent.

**COUNT VI - Non-Infringement of the '382 patent**

76. ADM realleges the allegations set forth above in counterclaim paragraphs 59-65, 67, 69, 71, 73 and 75.

77. ADM does not now infringe, nor has it ever infringed, the '382 patent.

**COUNT VII - Non-Infringement of the '381 patent**

78. ADM realleges the allegations set forth above in counterclaim paragraphs 59-65, 67, 69, 71, 73, 75 and 77.

79. ADM does not now infringe, nor has it ever infringed, the '381 patent.

**COUNT VIII - Non-Infringement of the '292 patent**

80. ADM realleges the allegations set forth above in counterclaim paragraphs 59-65, 67, 69, 71, 73, 75, 77 and 79.

81. ADM does not now infringe, nor has it ever infringed, the '292 patent.

**Prayer for Relief**

WHEREFORE, counterclaim Plaintiff ADM requests that this Court:

A. Enter judgment declaring that U.S. Patent No. 6,642,212 is invalid and unenforceable.

B. Enter judgment declaring that U.S. Patent No. 6,664,382 is invalid and unenforceable.

C. Enter judgment declaring that U.S. Patent No. 6,680,381 is invalid and unenforceable.

D. Enter judgment declaring that U.S. Patent No. 6,706,292 is invalid and unenforceable.

E. Enter judgment declaring that ADM does not infringe, nor has it ever infringed, U.S. Patent No. 6,642,212.

F. Enter judgment declaring that ADM does not infringe, nor has it ever infringed, U.S. Patent No. 6,664,382.

G. Enter judgment declaring that ADM does not infringe, nor has it ever infringed, U.S. Patent No. 6,680,381.

H. Enter judgment declaring that ADM does not infringe, nor has it ever infringed, U.S. Patent No. 6,706,292

I. Enter judgment pursuant to 35 U.S.C. § 285 awarding ADM all of its reasonable attorney fees, costs and expenses incurred in defending this action because this is an exceptional case.

J. Award such other and further relief as may be just and proper under the circumstances.

### **Demand for Jury Trial**

ADM demands a trial by jury of all issues so triable as a matter of right.

Respectfully submitted,

SONNENSCHN NATH & ROSENTHAL LLP

/s/ Kirill Y. Abramov

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*Of Counsel for Defendant  
Archer Daniels Midland Company*

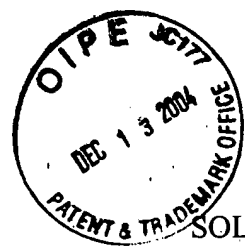
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy hereof was sent via the Court's Electronic Case Filing System on this 11th day of May, 2004 to:

Andrew Rothschild  
C. David Goerisch  
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Patricia A. Carson  
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New York, NY 10022

/s/ Kirill Y. Abramov



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

SOLAE, L.L.C.,

Plaintiff,

v.

ARCHER DANIELS MIDLAND  
COMPANY

and

AMERIFIT NUTRITION, INC.

Defendants.

Civil Action No. 4:03CV00732 HEA

JURY TRIAL DEMANDED

**DEFENDANT, AMERIFIT NUTRITION, INC.'S, ANSWER AND  
COUNTER CLAIMS TO PLAINTIFF'S THIRD SUPPLEMENTAL COMPLAINT**

Defendant, AMERIFIT NUTRITION, INC. ("Amerifit"), by and through its attorneys, hereby answers the claims of the Plaintiff, SOLAE, L.L.C., ("Solae"), presented in Plaintiff's Third Supplemental Complaint for Patent Infringement and Jury Demand ("Complaint"), as follows:

1. Amerifit does not have sufficient information to either admit or deny the allegations, contained in paragraph one, concerning the legal basis for this Complaint, and therefore denies same and leaves Plaintiff to its proof thereof.

2. Amerifit admits that it is subject to personal jurisdiction in this district. Amerifit denies that it has committed infringing acts in this district.

3. Amerifit admits that this Court has exclusive jurisdiction over the subject matter of this action.

4. Amerifit admits that venue is proper in this Court.



5. Amerifit does not have sufficient information to either admit or deny the allegations, contained in paragraph five, concerning the place of incorporation and principal place of business of Solae set forth therein, and therefore denies same and leaves Plaintiff to its proof thereof.

6. Amerifit admits the allegations contained in paragraph six of the Complaint.

7. Amerifit admits the allegations contained in paragraph seven of the Complaint.

8. Amerifit does not have sufficient information to either admit or deny the allegations, contained in paragraph eight and therefore denies same and leaves Plaintiff to its proof thereof.

9. Amerifit does not have sufficient information to either admit or deny the allegations, contained in paragraph nine and therefore denies same and leaves Plaintiff to its proof thereof.

10. Amerifit does not have sufficient information to either admit or deny the allegations, contained in paragraph ten and therefore denies same and leaves Plaintiff to its proof thereof.

11. Amerifit does not have sufficient information to either admit or deny the allegations, contained in paragraph eleven and therefore denies same and leaves Plaintiff to its proof thereof.

12. Amerifit does not have sufficient information to either admit or deny the allegations, contained in paragraph twelve and therefore denies same and leaves Plaintiff to its proof thereof.

13. Amerifit states that the document speaks for itself.

14. Amerifit denies the allegations contained in paragraph fourteen of the Complaint.

15. Amerifit denies the allegations contained in paragraph fifteen of the Complaint.

16. To the extent paragraph sixteen of the Complaint alleges that ADM's Novasoy contains more than trace amounts of each of the soy isoflavones daidzein, genistein, and

glycitein, their glucosides, and acetyl and malonyl esters, Amerifit denies the allegations contained in paragraph sixteen of the Complaint.

17. Amerifit admits the allegations contained in paragraph seventeen of the Complaint.

18. Amerifit denies the allegations contained in paragraph eighteen of the Complaint.

19. Amerifit denies the allegations contained in paragraph nineteen of the Complaint.

20. To the extent paragraph twenty of the Complaint alleges that Amerifit's Estroven contains more than trace amounts of each of the soy isoflavones daidzein, genistein, and glycitein, their glucosides, and acetyl and malonyl esters, Amerifit denies the allegations contained in paragraph twenty of the Complaint.

21. Amerifit admits the allegations contained in paragraph twenty-one of the Complaint.

22. Amerifit states that the document speaks for itself.

23. Amerifit denies the allegations contained in paragraph twenty-three of the Complaint.

24. Amerifit denies the allegations contained in paragraph twenty-four of the Complaint.

25. Amerifit denies the allegations contained in paragraph twenty-five of the Complaint.

26. Amerifit states that the document speaks for itself.

27. Amerifit denies the allegations contained in paragraph twenty-seven of the Complaint.

28. Amerifit denies the allegations contained in paragraph twenty-eight of the Complaint.

29. Amerifit denies the allegations contained in paragraph twenty-nine of the Complaint.

30. Amerifit states that the document speaks for itself.

31. Amerifit denies the allegations contained in paragraph thirty-one of the Complaint.

32. Amerifit denies the allegations contained in paragraph thirty-two of the Complaint.

33. Amerifit denies the allegations contained in paragraph thirty-three of the Complaint.

34. Amerifit repeats the answers set forth above in paragraphs 1-33.

35. Amerifit denies the allegations contained in paragraph thirty-five of the Complaint.

36. Amerifit denies the allegations contained in paragraph thirty-six of the Complaint.

37. Amerifit denies the allegations contained in paragraph thirty-seven of the Complaint.

38. Amerifit denies the allegations contained in paragraph thirty-eight of the Complaint.

39. Amerifit denies the allegations contained in paragraph thirty-nine of the Complaint.

40. Amerifit denies the allegations contained in paragraph forty of the Complaint.

41. Amerifit denies the allegations contained in paragraph forty-one of the Complaint.

42. Amerifit denies the allegations contained in paragraph forty-two of the Complaint.

43. Amerifit denies the allegations contained in paragraph forty-three of the Complaint.

44. Amerifit denies the allegations contained in paragraph forty-four of the Complaint.

45. Amerifit denies the allegations contained in paragraph forty-five of the Complaint.

46. Amerifit denies the allegations contained in paragraph forty-six of the Complaint.

47. Amerifit denies the allegations contained in paragraph forty-seven of the Complaint.

48. Amerifit denies the allegations contained in paragraph forty-eight of the Complaint.

49. Amerifit denies the allegations contained in paragraph forty-nine of the Complaint.

50. Amerifit denies the allegations contained in paragraph fifty of the Complaint.

### **Affirmative Defenses**

#### **Invalidity**

51. Each claim of the '212 patent is invalid under 35 U.S.C. § 102 as lacking novelty, is invalid under 35 U.S.C. § 103 because the differences between the subject matter claimed and the prior art are such that it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains; and/or is invalid for failure to comply with the requirements of 35 U.S.C. § 112.

52. Each claim of the '382 patent is invalid under 35 U.S.C. § 102 as lacking novelty, is invalid under 35 U.S.C. § 103 because the differences between the subject matter claimed and the prior art are such that it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains; and/or is invalid for failure to comply with the requirements of 35 U.S.C. § 112.

53. Each claim of the '381 patent is invalid under 35 U.S.C. § 102 as lacking novelty, is invalid under 35 U.S.C. § 103 because the differences between the subject matter claimed and the prior art are such that it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains; and/or is invalid for failure to comply with the requirements of 35 U.S.C. § 112.

54. Each claim of the '292 patent is invalid under 35 U.S.C. § 102 as lacking novelty; is invalid under 35 U.S.C. § 103 because the differences between the subject matter claimed and the prior art are such that it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains; and/or is invalid for failure to comply with the requirements of 35 U.S.C. § 112.

#### **Non-Infringement**

- 55. Amerifit does not now infringe, nor has it ever infringed, the '212 patent.
- 56. Amerifit does not now infringe, nor has it ever infringed, the '382 patent.
- 57. Amerifit does not now infringe, nor has it ever infringed, the '381 patent.
- 58. Amerifit does not now infringe, nor has it ever infringed, the '292 patent.

#### **Counter-Claim**

#### **Declaratory Judgment**

59. On information and belief, Plaintiff and counterclaim Defendant, Solae, L.L.C., is a Delaware limited liability corporation, having a principal place of business in St. Louis, Missouri.

60. Defendant and counterclaim Plaintiff, Amerifit Nutrition, Inc., is a corporation organized under the laws of the state of Delaware with its principal place of business at 166 Highland Park Drive, Bloomfield, Connecticut 06002.

61. This is an action for declaratory judgment of invalidity, unenforceability and non-infringement of U.S. Patent No. 6,642,212 ("the '212 patent"); U.S. Patent No. 6,664,382 ("the '382 patent"); U.S. Patent No. 6,680,381 ("the '381 patent"); and U.S. Patent No. 6,706,292 ("the '292 patent") under the patent laws of the United States, Title 35 United States Code.

62. Exclusive jurisdiction over these counterclaims is conferred upon this Court pursuant to 28 U.S.C. § 1338(a). The relief of declaratory judgment is proper under 28 U.S.C. § 2201.

63. A true and actual controversy exists regarding the validity, enforceability, and non-infringement of the claims of the '212 patent, the '382 patent, the '381 patent, and the '292 patent asserted by Solae against Amerifit.

64. On April 26, 2004, Plaintiff filed a Third Amended Complaint (Civil Action Number 03 CV 01595 RWS, now Civil Action No. 4:03CV00732 HEA) against ADM alleging, *inter alia*, that certain products made, used and/or sold by ADM infringe the '212 patent, the '382 patent, the '381 patent and/or the '292 patent.

65. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and (c).

#### **COUNT I - Invalidity of the '212 patent**

66. Amerifit realleges the allegations set forth above in counterclaim paragraphs 59-65.

67. Each claim of the '212 patent is invalid under 35 U.S.C. § 102 as lacking novelty, is invalid under 35 U.S.C. § 103 because the differences between the subject matter claimed and the prior art are such that it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains; and/or is invalid for failure to comply with the requirements of 35 U.S.C. § 112.

#### **COUNT II - Invalidity of the '382 patent**

68. Amerifit realleges the allegations set forth above in counterclaim paragraphs 59-65 and 67.

69. Each claim of the '382 patent is invalid under 35 U.S.C. § 102 as lacking novelty, is invalid under 35 U.S.C. § 103 because the differences between the subject matter claimed and the prior art are such that it would have been obvious at the time the invention was made to a

person having ordinary skill in the art to which the subject matter pertains; and/or is invalid for failure to comply with the requirements of 35 U.S.C. § 112.

**COUNT III - Invalidity of the '381 patent**

70. Amerifit realleges the allegations set forth above in counterclaim paragraphs 59-65, 67 and 69.

71. Each claim of the '381 patent is invalid under 35 U.S.C. § 102 as lacking novelty; is invalid under 35 U.S.C. § 103 because the differences between the subject matter claimed and the prior art are such that it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains; and/or is invalid for failure to comply with the requirements of 35 U.S.C. § 112.

**COUNT IV - Invalidity of the '292 patent**

72. Amerifit realleges the allegations set forth above in counterclaim paragraphs 59-65, 67, 69 and 71.

73. Each claim of the '292 patent is invalid under 35 U.S.C. § 102 as lacking novelty; is invalid under 35 U.S.C. § 103 because the differences between the subject matter claimed and the prior art are such that it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains; and/or is invalid for failure to comply with the requirements of 35 U.S.C. § 112.

**COUNT V - Non-Infringement of the '212 patent**

74. Amerifit realleges the allegations set forth above in counterclaim paragraphs 59-65, 67, 69, 71 and 73.

75. Amerifit does not now infringe, nor has it ever infringed, the '212 patent.

**COUNT VI - Non-Infringement of the '382 patent**

76. Amerifit realleges the allegations set forth above in counterclaim paragraphs 59-65, 67, 69, 71, 73 and 75.

77. Amerifit does not now infringe, nor has it ever infringed, the '382 patent.

**COUNT VII - Non-Infringement of the '381 patent**

78. Amerifit realleges the allegations set forth above in counterclaim paragraphs 59-65, 67, 69, 71, 73, 75 and 77.

79. Amerifit does not now infringe, nor has it ever infringed, the '381 patent.

**COUNT VIII - Non-Infringement of the '292 patent**

80. Amerifit realleges the allegations set forth above in counterclaim paragraphs 59-65, 67, 69, 71, 73, 75, 77 and 79.

81. Amerifit does not now infringe, nor has it ever infringed, the '292 patent.

**Prayer for Relief**

WHEREFORE, counterclaim Plaintiff Amerifit requests that this Court:

A. Enter judgment declaring that U.S. Patent No. 6,642,212 is invalid and unenforceable.

B. Enter judgment declaring that U.S. Patent No. 6,664,382 is invalid and unenforceable.

C. Enter judgment declaring that U.S. Patent No. 6,680,381 is invalid and unenforceable.



D. Enter judgment declaring that U.S. Patent No. 6,706,292 is invalid and unenforceable.

E. Enter judgment declaring that Amerifit does not infringe, nor has it ever infringed, U.S. Patent No. 6,642,212.

F. Enter judgment declaring that Amerifit does not infringe, nor has it ever infringed, U.S. Patent No. 6,664,382.

G. Enter judgment declaring that Amerifit does not infringe, nor has it ever infringed, U.S. Patent No. 6,680,381.

H. Enter judgment declaring that Amerifit does not infringe, nor has it ever infringed, U.S. Patent No. 6,706,292

I. Enter judgment pursuant to 35 U.S.C. § 285 awarding Amerifit all of its reasonable attorney fees, costs and expenses incurred in defending this action because this is an exceptional case.

J. Award such other and further relief as may be just and proper under the circumstances.

#### **Demand for Jury Trial**

Amerifit demands a trial by jury of all issues so triable as a matter of right.

Respectfully submitted,

SONNENSCHN NATH & ROSENTHAL LLP

/s/ Kirill Y. Abramov

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*Of Counsel for Defendant  
Archer Daniels Midland Company*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy hereof was sent via the Court's Electronic Case Filing System on this 11th day of May, 2004 to:

Andrew Rothschild  
C. David Goerisch  
Michael J. Hickey  
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St. Louis, MO 63102

Patricia A. Carson  
Thomas F. Fleming  
KAYE SCHOLER LLP  
425 Park Avenue  
New York, NY 10022

/s/ Kirill Y. Abramov



### **Non-Infringement**

6. Solae denies the allegations contained in paragraph 55 of Amerifit's Answer.
7. Solae denies the allegations contained in paragraph 56 of Amerifit's Answer.
8. Solae denies the allegations contained in paragraph 57 of Amerifit's Answer.
9. Solae denies the allegations contained in paragraph 58 of Amerifit's Answer.

### **Counter-Claim**

#### **Declaratory Judgment**

10. Solae admits the allegations contained in paragraph 59 of Amerifit's Answer.
11. Solae does not have sufficient information to admit or deny the allegations contained in paragraph 60 of Amerifit's Answer.
12. Solae admits that paragraph 61 of Amerifit's Answer purports to state a counterclaim for a declaratory judgment of invalidity, unenforceability and non-infringement of U.S. Patent No. 6,642,212 ("the '212 patent"); U.S. Patent No. 6,664,382 ("the '382 patent"); U.S. Patent No. 6,680,381 ("the '381 patent"); and U.S. Patent No. 6,706,292 ("the '292 patent") under the patent laws of the United States, Title 35 United States Code.
13. Solae admits the allegations contained in paragraph 62 of Amerifit's Answer.
14. Solae admits the allegations contained in paragraph 63 of Amerifit's Answer.
15. Solae admits the allegations contained in paragraph 64 of Amerifit's Answer.
16. Solae admits the allegations contained in paragraph 65 of Amerifit's Answer.

**COUNT I - Invalidity of the '212 patent**

17. Paragraph 66 of Amerifit's Answer realleges the allegations set forth in paragraphs 59-65 in Amerifit's Answer. In response, Solae realleges and incorporates by reference its responses to paragraphs 59-65 in Amerifit's Answer, as set forth in paragraphs 10-16 above.

18. Solae denies the allegations contained in paragraph 67 of Amerifit's Answer.

**COUNT II - Invalidity of the '382 patent**

19. Paragraph 68 of Amerifit's Answer realleges the allegations set forth in paragraphs 59-65 and 67 of Amerifit's Answer. In response, Solae realleges and incorporates by reference its responses to paragraphs 59-65 and 67 in Amerifit's Answer, as set forth in paragraphs 10-16 and 18 above.

20. Solae denies the allegations contained in paragraph 69 of Amerifit's Answer.

**COUNT III - Invalidity of the '381 patent**

21. Paragraph 70 of Amerifit's Answer realleges the allegations set forth in paragraphs 59-65, 67 and 69 of Amerifit's Answer. In response, Solae realleges and incorporates by reference its responses to paragraphs 59-65, 67 and 69 in Amerifit's Answer, as set forth in paragraphs 10-16, 18 and 20 above.

22. Solae denies the allegations contained in paragraph 71 of Amerifit's Answer.

**COUNT IV - Invalidity of the '292 patent**

23. Paragraph 72 of Amerifit's Answer realleges the allegations set forth in paragraphs 59-65, 67, 69 and 71 of Amerifit's Answer. In response, Solae realleges and incorporates by reference its responses to paragraphs 59-65, 67, 69 and 71 in Amerifit's Answer, as set forth in paragraphs 10-16, 18, 20 and 22 above.

24. Solae denies the allegations contained in paragraph 73 of Amerifit's Answer.

**COUNT V - Non-Infringement of the '212 patent**

25. Paragraph 74 of Amerifit's Answer realleges the allegations set forth in paragraphs 59-65, 67, 69, 71 and 73 of Amerifit's Answer. In response, Solae realleges and incorporates by reference its responses to paragraphs 59-65, 67, 69, 71 and 73 in Amerifit's Answer, as set forth in paragraphs 10-16, 18, 20, 22 and 24 above.

26. Solae denies the allegations contained in paragraph 75 of Amerifit's Answer.

**COUNT VI - Non-Infringement of the '382 patent**

27. Paragraph 76 of Amerifit's Answer realleges the allegations set forth in paragraphs 59-65, 67, 69, 71, 73 and 75 of Amerifit's Answer. In response, Solae realleges and incorporates by reference its responses to paragraphs 59-65, 67, 69, 71, 73 and 75 in Amerifit's Answer, as set forth in paragraphs 10-16, 18, 20, 22, 24 and 26 above.

28. Solae denies the allegations contained in paragraph 77 of Amerifit's Answer.

**COUNT VII - Non-Infringement of the '381 patent**

29. Paragraph 78 of Amerifit's Answer realleges the allegations set forth in paragraphs 59-65, 67, 69, 71, 73, 75 and 77 of Amerifit's Answer. In response, Solae realleges and incorporates by reference its responses to paragraphs 59-65, 67, 69, 71, 73, 75 and 77 in Amerifit's Answer, as set forth in paragraphs 10-16, 18, 20, 22, 24, 26 and 28 above.

30. Solae denies the allegations contained in paragraph 79 of Amerifit's Answer.

**COUNT VIII - Non-Infringement of the '292 patent**

31. Paragraph 80 of Amerifit's Answer realleges the allegations set forth in paragraphs 59-65, 67, 69, 71, 73, 75, 77 and 79 of Amerifit's Answer. In response, Solae realleges and incorporates by reference its responses to paragraphs 59-65, 67, 69, 71, 73, 75, 77

and 79 in Amerifit's Answer, as set forth in paragraphs 10-16, 18, 20, 22, 24, 26, 28 and 30 above.

32. Solae denies the allegations contained in paragraph 81 of Amerifit's Answer.

WHEREFORE, Plaintiff Solae requests judgment dismissing Defendant Amerifit's counterclaims in all respects, and for such other and further relief as the Court deems just and proper.

**DEMAND FOR A JURY TRIAL**

Plaintiff hereby demands trial by jury of all issues so triable in this action.

Respectfully Submitted,

**LEWIS, RICE & FINGERSH, L.C.**

Dated: June 1, 2004

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 1st day of June, 2004, a true and accurate copy of the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon the following persons:

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/s/ C. David Goerisch





SOLAE, LLC,

Plaintiff,

**VS.**

ARCHER DANIELS MIDLAND COMPANY  
and AMERIFIT NUTRITION, INC.

**Defendants.**

CIVIL ACTION No.:4:03CV00732 HEA  
(originally 4:03CV01595RWS)

## JURY TRIAL DEMANDED

**PLAINTIFF'S REPLY TO ANSWER AND COUNTERCLAIMS  
OF DEFENDANT ARCHER DANIELS MIDLAND COMPANY**

Plaintiff Solae, LLC (“Solae” or “Plaintiff”), by and through its attorneys, replies to Defendant, Archer Daniels Midland Company’s, Answer and Counterclaims to Plaintiff’s Third Supplemental Complaint (“ADM’s Answer”), as follows:

1. Paragraphs 1-50 of ADM's Answer are responses to the allegations in Solae's Third Supplemental Complaint to which no response is necessary or appropriate.

### **ADM's Affirmative Defenses**

### Invalidity

2. Solae denies the allegations contained in paragraph 51 of ADM's Answer.
3. Solae denies the allegations contained in paragraph 52 of ADM's Answer.
4. Solae denies the allegations contained in paragraph 53 of ADM's Answer.
5. Solae denies the allegations contained in paragraph 54 of ADM's Answer.

**Non-Infringement**

6. Solae denies the allegations contained in paragraph 55 of ADM's Answer.
7. Solae denies the allegations contained in paragraph 56 of ADM's Answer.
8. Solae denies the allegations contained in paragraph 57 of ADM's Answer.
9. Solae denies the allegations contained in paragraph 58 of ADM's Answer.

**Counter-Claim**

**Declaratory Judgment**

10. Solae admits the allegations contained in paragraph 59 of ADM's Answer.
11. Solae does not have sufficient information to admit or deny the allegations contained in paragraph 60 of ADM's Answer.
12. Solae admits that paragraph 61 of ADM's Answer purports to state a counterclaim for a declaratory judgment of invalidity, unenforceability and non-infringement of U.S. Patent No. 6,642,212 ("the '212 patent"); U.S. Patent No. 6,664,382 ("the '382 patent"); U.S. Patent No. 6,680,381 ("the '381 patent"); and U.S. Patent No. 6,706,292 ("the '292 patent") under the patent laws of the United States, Title 35 United States Code.
13. Solae admits the allegations contained in paragraph 62 of ADM's Answer.
14. Solae admits the allegations contained in paragraph 63 of ADM's Answer.
15. Solae admits the allegations contained in paragraph 64 of ADM's Answer.
16. Solae admits the allegations contained in paragraph 65 of ADM's Answer.

**COUNT I - Invalidity of the '212 patent**

17. Paragraph 66 of ADM's Answer realleges the allegations set forth in paragraphs 59-65 in ADM's Answer. In response, Solae realleges and incorporates by reference its responses to paragraphs 59-65 in ADM's Answer, as set forth in paragraphs 10-16 above.

18. Solae denies the allegations contained in paragraph 67 of ADM's Answer.

**COUNT II - Invalidity of the '382 patent**

19. Paragraph 68 of ADM's Answer realleges the allegations set forth in paragraphs 59-65 and 67 of ADM's Answer. In response, Solae realleges and incorporates by reference its responses to paragraphs 59-65 and 67 in ADM's Answer, as set forth in paragraphs 10-16 and 18 above.

20. Solae denies the allegations contained in paragraph 69 of ADM's Answer.

**COUNT III - Invalidity of the '381 patent**

21. Paragraph 70 of ADM's Answer realleges the allegations set forth in paragraphs 59-65, 67 and 69 of ADM's Answer. In response, Solae realleges and incorporates by reference its responses to paragraphs 59-65, 67 and 69 in ADM's Answer, as set forth in paragraphs 10-16, 18 and 20 above.

22. Solae denies the allegations contained in paragraph 71 of ADM's Answer.

**COUNT IV - Invalidity of the '292 patent**

23. Paragraph 72 of ADM's Answer realleges the allegations set forth in paragraphs 59-65, 67, 69 and 71 of ADM's Answer. In response, Solae realleges and incorporates by reference its responses to paragraphs 59-65, 67, 69 and 71 in ADM's Answer, as set forth in paragraphs 10-16, 18, 20 and 22 above.

24. Solae denies the allegations contained in paragraph 73 of ADM's Answer.

**COUNT V - Non-Infringement of the '212 patent**

25. Paragraph 74 of ADM's Answer realleges the allegations set forth in paragraphs 59-65, 67, 69, 71 and 73 of ADM's Answer. In response, Solae realleges and incorporates by reference its responses to paragraphs 59-65, 67, 69, 71 and 73 in ADM's Answer, as set forth in paragraphs 10-16, 18, 20, 22 and 24 above.

26. Solae denies the allegations contained in paragraph 75 of ADM's Answer.

**COUNT VI - Non-Infringement of the '382 patent**

27. Paragraph 76 of ADM's Answer realleges the allegations set forth in paragraphs 59-65, 67, 69, 71, 73 and 75 of ADM's Answer. In response, Solae realleges and incorporates by reference its responses to paragraphs 59-65, 67, 69, 71, 73 and 75 in ADM's Answer, as set forth in paragraphs 10-16, 18, 20, 22, 24 and 26 above.

28. Solae denies the allegations contained in paragraph 77 of ADM's Answer.

**COUNT VII - Non-Infringement of the '381 patent**

29. Paragraph 78 of ADM's Answer realleges the allegations set forth in paragraphs 59-65, 67, 69, 71, 73, 75 and 77 of ADM's Answer. In response, Solae realleges and incorporates by reference its responses to paragraphs 59-65, 67, 69, 71, 73, 75 and 77 in ADM's Answer, as set forth in paragraphs 10-16, 18, 20, 22, 24, 26 and 28 above.

30. Solae denies the allegations contained in paragraph 79 of ADM's Answer.

**COUNT VIII - Non-Infringement of the '292 patent**

31. Paragraph 80 of ADM's Answer realleges the allegations set forth in paragraphs 59-65, 67, 69, 71, 73, 75, 77 and 79 of ADM's Answer. In response, Solae realleges and incorporates by reference its responses to paragraphs 59-65, 67, 69, 71, 73, 75, 77 and 79 in ADM's Answer, as set forth in paragraphs 10-16, 18, 20, 22, 24, 26, 28 and 30 above.

32. Solae denies the allegations contained in paragraph 81 of ADM's Answer.

WHEREFORE, Plaintiff Solae requests judgment dismissing Defendant ADM's counterclaims in all respects, and for such other and further relief as the Court deems just and proper.

**DEMAND FOR A JURY TRIAL**

Plaintiff hereby demands trial by jury of all issues so triable in this action.

Respectfully Submitted,

**LEWIS, RICE & FINGERSH, L.C.**

Dated: June 1, 2004

By: /s/ C. David Goerisch

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C. David Goerisch, #77207

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 1st day of June, 2004, a true and accurate copy of the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon the following persons:

Stephen H. Rovak  
Michael T. Marrah  
Kirill Y. Abramov  
Sonnenschein, Nath & Rosenthal LLP  
One Metropolitan Square, Suite 3000  
St. Louis, MO 63102

David K.S. Cornwell  
Timothy J. Shea, Jr.  
Donald R. Banowit  
Sterne, Kessler, Goldstein & Fox, P.L.L.C.  
1100 New York Avenue, N.W.  
Washington, DC 20005

/s/ C. David Goerisch

**U.S. District Court  
Eastern District of Missouri (LIVE) (St. Louis)  
CIVIL DOCKET FOR CASE #: 4:03-cv-00732-HEA**

Solae, L.L.C. v. Archer Daniels Co., et al  
Assigned to: Honorable Henry E. Autrey  
Referred to:  
Demand: \$0  
Lead Docket: 4:03-cv-00732-HEA  
Related Cases: None  
Case in other court: None  
Cause: 28:1338 Patent Infringement

Date Filed: 06/03/03  
Jury Demand: Both  
Nature of Suit: 830 Patent  
Jurisdiction: Federal Question

Filing Date	#	Docket Text
08/26/2004	<u>96</u>	PROTECTIVE ORDER SEE ORDER FOR DETAILS. Signed by Judge Henry E. Autrey on 8/26/04. (MJM, ) (Entered: 08/27/2004)
08/26/2004		Docket Text ORDER re <u>93</u> MOTION for Protective Order filed by Archer Daniels Midland Company ; ORDERED Granted. Signed by Judge Henry E. Autrey on 8/26/04. (MJM, ) (Entered: 08/27/2004)
08/25/2004	<u>95</u>	NOTICE of Appointment of Neutral Neutral name: Richard Sher Neutral selected by parties, notice of appointment and order of referral e-mailed to neutral Sher.(SAC, ) (Entered: 08/25/2004)
08/23/2004	<u>94</u>	Designation of Neutral by parties and ADR Conference Report by Plaintiff Solae, L.L.C. Neutral: Richard P. Sher Date of Conference: October 4, 2004 time: 9:00 a.m. Location: Devereux Murphy, LLC (Goerisch, C.) (Entered: 08/23/2004)
08/20/2004		***REMARK Document 92 has been deleted from this record and refiled as document #93 (CEL, ) (Entered: 08/20/2004)
08/20/2004	<u>93</u>	MOTION for Protective Order by Defendant Archer Daniels Midland Company, Counter Claimants Archer Daniels Midland Company, Archer Daniels Midland Company. (Attachments: # <u>1</u> Text of Proposed Order Stipulation And Order GoverningThe Protection And Exchange Of Confidential Material)(Abramov, Kirill) (Entered: 08/20/2004)
08/17/2004		Docket Text ORDER re <u>90</u> Consent MOTION for Extension of: Deadline to Advise Court of Mediator Selection and ADR Conference Schedule and to Extend Deadline to Complete Mediation filed by Solae, L.L.C. ; ORDERED Granted ADR Completion Deadline due by 10/22/2004. ADR Conference Schedule due by 8/23/2004. Designation of Neutral due by 8/23/2004.. Signed by

		Judge Henry E. Autrey on 8/17/04. (MJM, ) (Entered: 08/18/2004)
08/16/2004	<u>91</u>	AMENDED CASE MANAGEMENT ORDER Motion to Join Parties/Amend Pleadings due by 9/27/2004. Discovery Completion due by 2/18/2005. Non-Dispositive Motions due by 3/1/2005. Dispositive Motions due by 5/3/2005. Opposition briefs shall be filed no later than 6/3/05 and any reply brief may be filed no later than 6/13/05. Jury Trial set for 8/15/2005 09:30 AM in Courtroom 10N before Honorable Henry E. Autrey. Pretrial Compliance due by 7/26/2005.. Signed by Judge Henry E. Autrey on 8/16/04. (MJM, ) (Entered: 08/17/2004)
08/16/2004		Docket Text ORDER re <u>89</u> Joint MOTION to Amend/Correct <i>Case Management Order</i> filed by Archer Daniels Midland Company, Solae, L.L.C. ; ORDERED Granted. Signed by Judge Henry E. Autrey on 8/16/04. (MJM, ) (Entered: 08/17/2004)
08/16/2004	<u>90</u>	Consent MOTION for Extension of: Deadline to Advise Court of Mediator Selection and ADR Conference Schedule and to Extend Deadline to Complete Mediation by Plaintiff Solae, L.L.C.. (Goerisch, C.) (Entered: 08/16/2004)
08/13/2004	<u>89</u>	Joint MOTION to Amend/Correct <i>Case Management Order</i> by Defendant Archer Daniels Midland Company, Counter Claimants Archer Daniels Midland Company, Archer Daniels Midland Company, Plaintiff Solae, L.L.C.. (Attachments: # <u>1</u> Text of Proposed Order Amended Case Management Order)(Abramov, Kirill) (Entered: 08/13/2004)
08/10/2004		Docket Text ORDER re <u>88</u> Consent MOTION for Extension of: Time to Advise Court of ADR Conference Schedule filed by Solae, L.L.C. ; ORDERED Granted ADR Conference Schedule due by 8/16/2004. Designation of Neutral due by 8/16/2004.. Signed by Judge Henry E. Autrey on 8/10/04. (MJM, ) (Entered: 08/10/2004)
08/09/2004	<u>88</u>	Consent MOTION for Extension of: Time to Advise Court of ADR Conference Schedule by Plaintiff Solae, L.L.C.. (Goerisch, C.) (Entered: 08/09/2004)
07/22/2004	<u>87</u>	ORDER REFERRING CASE to Alternative Dispute Resolution. This case is referred to: Mediation Designation of Lead Counsel: Andrew Rothschild ADR Completion Deadline due by 9/19/2004. Designation of Neutral due by 8/9/2004. ADR Conference Schedule due by 8/9/2004.. Signed by Judge Henry E. Autrey on 7/22/04. (MJM, ) (Entered: 07/23/2004)
06/01/2004	<u>86</u>	ANSWER to Counterclaim of <i>Defendant Amerifit Nutrition, Inc.</i> by Solae, L.L.C..(Goerisch, C.) (Entered: 06/01/2004)



06/01/2004	<u>85</u>	ANSWER to Counterclaim of <i>Defendant Archer Daniels Midland Company</i> by Solae, L.L.C..(Goerisch, C.) (Entered: 06/01/2004)
05/11/2004	<u>84</u>	ANSWER to Complaint with Jury Demand, COUNTERCLAIM against plaintiff Solae, L.L.C. Jury DemandDemand, by Amerifit Nutrition, Inc..(Abramov, Kirill) (Entered: 05/11/2004)
05/11/2004	<u>83</u>	ANSWER to Complaint with Jury Demand, COUNTERCLAIM against plaintiff Solae, L.L.C. Jury DemandDemand, by Archer Daniels Midland Company.(Abramov, Kirill) (Entered: 05/11/2004)
04/30/2004	<u>82</u>	ORDER Jury Trial set for 8/15/2005 09:30 AM in Courtroom 10N before Honorable Henry E. Autrey. Signed by Judge Henry E. Autrey on 4/30/04. (CLA, ) (Entered: 04/30/2004)
04/28/2004	<u>81</u>	ORDER IT IS HEREBY ORDERED that cases 4:03CV732 HEA and 4:03CV1595 RWS are consolidated for all purposes. The parties shall file all further pleadings in case No. 4:03CV732 HEA only. IT IS FURTHER ORDERED that the Amended Case Management Order in Case Number 4:03CV732 HEA is modified by moving all deadlines set forth therein back 60 days. The trial in this matter shall remain June 6, 2005.. Signed by Judge Henry E. Autrey on 4/28/04. (MJM, ) (Entered: 04/28/2004)
04/26/2004	<u>80</u>	Joint MOTION to Consolidate Cases and <i>Modify the Court's Amended Case Management Order</i> Consolidate with higher case number 03-1595 by Defendants Amerifit Nutrition, Inc., Archer Daniels Midland Company, Counter Claimants Amerifit Nutrition, Inc., Archer Daniels Midland Company, Plaintiff Solae, L.L.C., Counter Defendants Solae, L.L.C., Solae, L.L.C.. (Goerisch, C.) (Entered: 04/26/2004)
04/21/2004	<u>79</u>	<i>Plaintiff's</i> ANSWER to Counterclaim of <i>Defendant Amerifit Nutrition, Inc.</i> by Solae, L.L.C..(Goerisch, C.) (Entered: 04/21/2004)
04/21/2004	<u>78</u>	<i>Plaintiff's</i> ANSWER to Counterclaim of <i>Defendant Archer Daniels Midland Company</i> by Solae, L.L.C..(Goerisch, C.) (Entered: 04/21/2004)
04/02/2004	<u>77</u>	AMENDED CASE MANAGEMENT ORDER This case is assigned to Track: 3 Motion to Join Parties due by 6/14/2004. Discovery Completion due by 12/20/2004. Non-Dispositive Motions due by 12/31/2004. ADR Future Reference 7/18/2004. Dispositive Motions due by 3/4/2005. Jury Trial set for 6/6/2005 09:30 AM in Courtroom 10N before Honorable Henry E. Autrey. Pretrial Compliance due by 5/17/2005.. Signed by Judge Henry E. Autrey on 4/2/04. (CEL, ) (Entered: 04/02/2004)

04/01/2004	<u>76</u>	ANSWER to Complaint with Jury Demand, COUNTERCLAIM against plaintiff Solae, L.L.C. Jury DemandDemand, by Archer Daniels Midland Company.(Abramov, Kirill) (Entered: 04/01/2004)
04/01/2004	<u>75</u>	ANSWER to Complaint with Jury Demand, COUNTERCLAIM against plaintiff Solae, L.L.C. Jury DemandDemand, by Amerifit Nutrition, Inc..(Abramov, Kirill) (Entered: 04/01/2004)
03/26/2004		Docket Text ORDER re <u>74</u> Consent MOTION for Leave to File An Answer On or before April 1, 2004 filed by Archer Daniels Midland Company ; ORDERED Granted. Signed by Judge Henry E. Autrey on 3/26/04. (MJM, ) (Entered: 03/26/2004)
03/25/2004	<u>74</u>	Consent MOTION for Leave to File An Answer On or before April 1, 2004 by Defendant Archer Daniels Midland Company. (Abramov, Kirill) (Entered: 03/25/2004)
03/24/2004		Docket Text ORDER re <u>73</u> MOTION for Reconsideration filed by Archer Daniels Midland Company ; ORDERED DENIED. Signed by Judge Henry E. Autrey on 3/24/04. (MJM, ) (Entered: 03/24/2004)
03/18/2004	<u>73</u>	MOTION for Reconsideration by Defendant Archer Daniels Midland Company. (Rovak, Stephen) (Entered: 03/18/2004)
03/15/2004	<u>72</u>	CASE MANAGEMENT ORDER This case is assigned to Track: 3 Motion to Join Parties due by 6/14/2004. Discovery Completion due by 12/20/2004. Non-Dispositive Motions due by 12/31/2004. ADR Future Reference 7/19/2004. Dispositive Motions due by 3/4/2005. Jury Trial set for 6/6/2005 09:30 AM in Courtroom 10N before Honorable Henry E. Autrey. Pretrial Compliance due by 5/18/2005. Motion in Limine due by 5/28/2005.. Signed by Judge Henry E. Autrey on 3/15/04. (CEL, ) (Entered: 03/15/2004)
03/11/2004	<u>71</u>	ORDER It is hereby ordered that deft. Archer Daniels Midland Co.'s mtn. to dismiss for lack of standing and failure to join an indispensable party is denied #23 motion to dismiss. It is further ordered that mtn. of deft. Amerifit Nutrition Inc., to dismiss plttf.'s complaint is denied [25] Motion to Dismiss Signed by Judge Henry E. Autrey on 3/11/04. (CLA, ) (Entered: 03/12/2004)
03/05/2004	<u>70</u>	ORDER It is hereby ordered that deft. Archer Daniels Midland Company's mtn. to vacate the court's order of 8/26/03 #51 is denied. Signed by Judge Jean C. Hamilton on 3/5/04. (CLA, ) (Entered: 03/05/2004)
03/05/2004	<u>69</u>	ORDER It is hereby ordered that memorandum withdrawing memorandum in support of mtn. deft. Amerifit Nutrition Inc., to

		dismiss plttf.'s complaint filed 7/11/03, is granted [27] Signed by Judge Henry E. Autrey on 3/5/04. (CLA, ) (Entered: 03/05/2004)
03/05/2004	<u>68</u>	MEMORANDUM in Support of Motion re [25] Motion to Dismiss filed by Defendant Amerifit Nutrition, Inc.. (CLA, ) (Entered: 03/05/2004)
02/20/2004		Docket Text ORDER re <u>67</u> MOTION for Leave to Appear Pro Hac Vice RE: Thomas Fleming filed by Solae, L.L.C.. Signed by Judge Henry E. Autrey on 2/20/04. (CEL, ) (Entered: 02/20/2004)
02/13/2004	<u>67</u>	MOTION for Leave to Appear Pro Hac Vice Thomas Fleming by Plaintiff Solae, L.L.C.. (MJM, ) (Entered: 02/18/2004)
02/13/2004		Receipt # S2004-004255 in the amount of \$25.00 for ATTORNEY ADM. FEE - PHV on behalf of FLEMING, THOMAS F.. (CSW, ) (Entered: 02/13/2004)
02/11/2004	<u>66</u>	ORDER IT IS HEREBY ORDERED that the Rule 16 conference previously scheduled for Friday, March 5, 2004 at 11:30 a.m. is hereby reset to 11:00 a.m. in the chambers of the undersigned. Rule 16 Conference set for 3/5/2004 11:00 AM in In Chambers before Honorable Henry E. Autrey.. Signed by Judge Henry E. Autrey on 2/11/04. (MJM, ) (Entered: 02/11/2004)
01/30/2004	<u>65</u>	JOINT SCHEDULING PLAN by Defendants Amerifit Nutrition, Inc., Archer Daniels Midland Company, Plaintiff Solae, L.L.C... (Goerisch, C.) (Entered: 01/30/2004)
01/29/2004	<u>64</u>	ORDER re <u>63</u> Joint MOTION Reschedule Rule 16 Conference and For an Extension of Time to Submit Proposed Scheduling Plan filed by Archer Daniels Midland Company, Solae, L.L.C., Amerifit Nutrition, Inc. IT IS HEREBY ORDERED that Defendant's Joint MOTION to Reschedule Rule 16 Conference and For an Extension of Time to Submit Proposed Scheduling Plan [Doc. #63] is GRANTED. The Rule 16 conference previously scheduled for February 6, 2004 at 12:00 p.m. is hereby rescheduled to Friday, March 5, 2004 at 11:30 a.m. in the chambers of the undersigned. Rule 16 Conference set for 3/5/2004 11:30 AM in Courtroom 10N before Honorable Henry E. Autrey.. Signed by Judge Henry E. Autrey on 1/29/04. (MJM, ) (Entered: 01/29/2004)
01/27/2004	<u>63</u>	Joint MOTION Reschedule Rule 16 Conference and For an Extension of Time to Submit Proposed Scheduling Plan by Defendants Amerifit Nutrition, Inc., Archer Daniels Midland Company, Plaintiff Solae, L.L.C.. (Abramov, Kirill) (Entered: 01/27/2004)

01/12/2004	<u>62</u>	RULE 16 ORDER This case is assigned to Track: (2) Standard Joint Scheduling Plan due by 1/27/2004. Rule 16 Conference set for 2/6/2004 12:00 PM in In Chambers before Honorable Henry E. Autrey.. Signed by Judge Henry E. Autrey on 1/12/04. (MJM, ) (Entered: 01/12/2004)
01/08/2004		Docket Text ORDER ; ORDERED GRANTING notice doc #60 - attys with Thompson Coburn and Greenberg Traurig termed as attys of record. Signed by Judge Henry E. Autrey on 1/8/04. (CEL, ) (Entered: 01/20/2004)
01/08/2004		Docket Text ORDER ; ORDERED GRANTING notice of firm change doc. #59 - address updated re: atty Carson; atty Ries termed as atty of record. Signed by Judge Henry E. Autrey on 1/8/04. (CEL, ) (Entered: 01/20/2004)
01/06/2004	<u>61</u>	ENTRY of Appearance by Kirill Y. Abramov Defendant Amerifit Nutrition, Inc.. (Abramov, Kirill) (Entered: 01/06/2004)
01/06/2004	<u>60</u>	NOTICE by Defendant Amerifit Nutrition, Inc. of <i>Withdrawal of Counsel</i> (Cassetta, Richard) (Entered: 01/06/2004)
01/06/2004	<u>59</u>	NOTICE by Plaintiff Solae, L.L.C. of <i>Firm Change for Certain Counsel and Withdrawal of Certain Other Counsel</i> (Goerisch, C.) (Entered: 01/06/2004)
12/12/2003	<u>58</u>	MEMORANDUM re <u>57</u> Reply to Response to Motion by Defendants Amerifit Nutrition, Inc., Archer Daniels Midland Company. (Abramov, Kirill) (Entered: 12/12/2003)
12/11/2003		Docket Text ORDER re <u>53</u> Joint MOTION to Consolidate Cases Consolidate with higher case number 4:03CV1595 filed by Archer Daniels Midland Company, Amerifit Nutrition, Inc. ; ORDERED Denied. Signed by Judge Henry E. Autrey on 12/11/03. (MJM, ) (Entered: 12/16/2003)
12/11/2003	<u>57</u>	REPLY to Response to Motion re <u>53</u> Joint MOTION to Consolidate Cases Consolidate with higher case number 4:03CV1595 filed by Defendants Amerifit Nutrition, Inc., Archer Daniels Midland Company. (Abramov, Kirill) (Entered: 12/11/2003)
12/04/2003	<u>56</u>	RESPONSE/Memorandum in Opposition re <u>53</u> Joint MOTION to Consolidate Cases Consolidate with higher case number 4:03CV1595 filed by Plaintiff Solae, L.L.C.. (Attachments: # <u>1</u> Exhibit 1) (Goerisch, C.) (Entered: 12/04/2003)
11/21/2003	<u>55</u>	SUPPLEMENTAL re <u>53</u> Joint MOTION to Consolidate Cases

		Consolidate with higher case number 4:03CV1595 <i>PROPOSED ORDER</i> by Defendants Amerifit Nutrition, Inc., Archer Daniels Midland Company. (Abramov, Kirill) (Entered: 11/21/2003)
11/21/2003	<u>54</u>	MEMORANDUM in Support of Motion re <u>53</u> Joint MOTION to Consolidate Cases Consolidate with higher case number 4:03CV1595 filed by Defendants Amerifit Nutrition, Inc., Archer Daniels Midland Company. (Abramov, Kirill) (Entered: 11/21/2003)
11/21/2003	<u>53</u>	Joint MOTION to Consolidate Cases Consolidate with higher case number 4:03CV1595 by Defendants Amerifit Nutrition, Inc., Archer Daniels Midland Company. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B)(Abramov, Kirill) (Entered: 11/21/2003)
09/03/2003	52	RESPONSE by plaintiff Solae, L.L.C. to motion requesting the Court to vacate its order of 8/26/03 [51-1] (MJM) (Entered: 09/05/2003)
08/29/2003	51	MOTION by defendant Archer Daniels Co. requesting the Court to vacate its order of 8/26/03 (MJM) (Entered: 09/05/2003)
08/29/2003	51	RESPONSE by defendant Archer Daniels Co. to [48-1] (CLA) (Entered: 09/02/2003)
08/26/2003	50	SEALED DOCUMENT by plaintiff Solae, L.L.C. [50-1] (MJM) (Entered: 08/27/2003)
08/26/2003	50	SUR-REPLY by plaintiff Solae, L.L.C. to response to motion to dismiss Plaintiff's Complaint Date Motion Received: 7/11/03 [25-1], motion to dismiss Date Motion Received: 7/10/03 [23-1] [23-1] w/ exh 19 attached (FILED UNDER SEAL) (MJM) Modified on 08/27/2003 (Entered: 08/27/2003)
08/26/2003	<u>49</u>	RULED DOCUMENT by Honorable Henry E. Autrey granting motion for leave to file surreply under seal [48-1] (cc: all counsel) (MJM) (Entered: 08/27/2003)
08/25/2003	48	MOTION by plaintiff Solae, L.L.C. for leave to file surreply under seal (MJM) (Entered: 08/26/2003)
08/14/2003	47	REPLY by defendant Archer Daniels Co. to response to motion to dismiss Date Motion Received: 7/10/03 [23-1] [23-1] w/ exhs m-o attached (MJM) (Entered: 08/15/2003)
08/14/2003	46	REPLY by defendant Amerifit Nutrition to response to motion to dismiss Plaintiff's Complaint Date Motion Received: 7/11/03 [25-1] (MJM) (Entered: 08/15/2003)

08/11/2003	<u>45</u>	SEALED DOCUMENT by plaintiff Solae, L.L.C. [45-1] (MJM) (Entered: 08/11/2003)
08/11/2003	<u>45</u>	RESPONSE ( memo in opp.) by plaintiff Solae, L.L.C. to motion to dismiss Plaintiff's Complaint Date Motion Received: 7/11/03 [25-1] w/ declaration of David F. Ries in support of resp. to mtn. attached (FILED UNDER SEAL) (MJM) (Entered: 08/11/2003)
08/11/2003	<u>44</u>	RULED DOCUMENT by Honorable Henry E. Autrey granting motion for leave to file resp. to motion under seal [43-1] (cc: all counsel) (MJM) (Entered: 08/11/2003)
08/04/2003	<u>43</u>	MOTION by plaintiff Solae, L.L.C. for leave to file resp. to motion under seal w/ resp. attached (MJM) (Entered: 08/05/2003)
07/25/2003	<u>42</u>	DISCLOSURE of Corporation Interests Certificate Parent companies: None Subsidiaries: All subsidiaries are wholly owned by Amerifit Publicly held company: Jefferies, Inc., Fleet Bank and GlaxoSmithKline each are public companies which own ten percent (10%) or more of Amerifit through various private investment funds which they own or control by defendant Amerifit Nutrition (MJM) (Entered: 07/28/2003)
07/23/2003	<u>41</u>	RULED DOCUMENT by Honorable Henry E. Autrey granting motion for attorney Annapoorni R. Sankaran to appear pro hac vice [38-1] (cc: all counsel) (CLA) (Entered: 07/25/2003)
07/23/2003	<u>40</u>	RULED DOCUMENT by Honorable Henry E. Autrey granting motion for attorney Gary R. Greenburg to appear pro hac vice [37-1] (cc: all counsel) (CLA) (Entered: 07/25/2003)
07/22/2003	<u>38</u>	MOTION by defendant Amerifit Nutrition for attorney Annapoorni R. Sankaran to appear pro hac vice (MJM) (Entered: 07/23/2003)
07/22/2003	<u>37</u>	MOTION by defendant Amerifit Nutrition for attorney Gary R. Greenburg to appear pro hac vice (MJM) (Entered: 07/23/2003)
07/21/2003	<u>36</u>	RULED DOCUMENT by Honorable Henry E. Autrey granting motion for additional time to file response to defendant Amerifit's Motion to dismiss [28-1] Pltff granted until 8/4 to file opposition to Amerifit's motion and Amerifit is granted until 8/14 to file reply (cc: all counsel) (CEL) (Entered: 07/22/2003)
07/21/2003	<u>35</u>	RULED DOCUMENT by Honorable Henry E. Autrey granting motion for attorney Donald R. Banowit to appear pro hac vice [29-1] (cc: all counsel) (CEL) (Entered: 07/21/2003)

07/21/2003	<u>34</u>	RULED DOCUMENT by Honorable Henry E. Autrey granting motion for attorney Timothy J. Shea, Jr. to appear pro hac vice [30-1] (cc: all counsel) (CEL) (Entered: 07/21/2003)
07/21/2003	<u>33</u>	RULED DOCUMENT by Honorable Henry E. Autrey granting motion for attorney David K.S. Cornwell to appear pro hac vice [31-1] (cc: all counsel) (CEL) (Entered: 07/21/2003)
07/17/2003	32	RECEIPT # S2003-009440 in the amount of \$ 75.00 for Attorney Admission for Donald R. Banowit, Timothy J. Shea, Jr., and David K.S. Cornwell (MJM) (Entered: 07/18/2003)
07/17/2003	31	MOTION by defendant Archer Daniels Co. for attorney David K.S. Cornwell to appear pro hac vice (MJM) (Entered: 07/18/2003)
07/17/2003	30	MOTION by defendant Archer Daniels Co. for attorney Timothy J. Shea, Jr. to appear pro hac vice (MJM) (Entered: 07/18/2003)
07/17/2003	29	MOTION by defendant Archer Daniels Co. for attorney Donald R. Banowit to appear pro hac vice (MJM) (Entered: 07/18/2003)
07/16/2003	28	MOTION by plaintiff Solae, L.L.C. for additional time to file response to defendant Amerifit's Motion to dismiss (MJM) (Entered: 07/17/2003)
07/14/2003	27	MOTION by defendant Amerifit Nutrition to withdraw the memo in support of motion to dismiss w/ corrected memo in support attached (MJM) (Entered: 07/15/2003)
07/14/2003	<u>26</u>	RULED DOCUMENT by Honorable Henry E. Autrey granting motion for extension of time for Plaintiff to file a response to motion to dismiss up to and including 8/4/03 and Defendant to file a reply in support of motion up to and including 8/14/03 [24-1], granting motion for leave to submit motion to dismiss [24-1] (cc: all counsel) (MJM) (Entered: 07/15/2003)
07/11/2003	25	MOTION by defendant Amerifit Nutrition to dismiss Plaintiff's Complaint Date Motion Received: 7/11/03 (MJM) (Entered: 07/15/2003)
07/10/2003	24	MOTION by plaintiff Solae, L.L.C., defendant Archer Daniels Co. for extension of time for Plaintiff to file a response to motion to dismiss up to and including 8/4/03 and Defendant to file a reply in support of motion up to and including 8/14/03 w/ proposed order, motion to dismiss, memo in support and declaration of David K.S. Cornwell attached (MJM) (Entered: 07/11/2003)

07/10/2003	24	MOTION by plaintiff Solae, L.L.C., defendant Archer Daniels Co. for leave to submit motion to dismiss w/ proposed order and motion to dismiss, memo in support and declaration of David K.S. Cornwell attached. (MJM) (Entered: 07/11/2003)
07/03/2003	23	MOTION by defendant Archer Daniels Co. to dismiss Date Motion Received: 7/10/03 [23-1] w/ memo in support and declaration of David K.S. Cornwell in support of motion attached (MJM) (Entered: 07/15/2003)
07/03/2003	23	Notice of Motion: Motion to Dismiss by defendant Archer Daniels Co. (MJM) (Entered: 07/08/2003)
07/02/2003	39	RECEIPT # S2003-009526 in the amount of \$ 50.00 for Attorney Admission for Gary Greenburg and Annapoorni Sankaran (MJM) (Entered: 07/23/2003)
07/01/2003	<u>22</u>	RULED DOCUMENT by Honorable Henry E. Autrey granting motion for an extension of time to respond to Plaintiff's complaint up to and including 7/14/03 [19-1] (cc: all counsel) (MJM) (Entered: 07/02/2003)
06/30/2003	21	ATTORNEY APPEARANCE for plaintiff Solae, L.L.C. by Patricia Carson (Entry of appearance received in Clerk's Office on 6/20/03-- Order admitting pro-hac signed 6/30/03) (MJM) (Entered: 07/01/2003)
06/30/2003	<u>20</u>	RULED DOCUMENT by Honorable Henry E. Autrey granting motion for attorney Patricia A. Carson to appear pro hac vice [12-1] (cc: all counsel) (MJM) (Entered: 07/01/2003)
06/30/2003	19	MOTION by defendant Amerifit Nutrition for an extension of time to respond to Plaintiff's complaint up to and including 7/14/03 (MJM) (Entered: 07/01/2003)
06/26/2003	18	DISCLOSURE of Corporation Interests Certificate Parent companies: None Subsidiaries: See Attachment Publicly held company: None by defendant Archer Daniels Co. (MJM) (Entered: 06/27/2003)
06/26/2003	<u>17</u>	RULED DOCUMENT by Honorable Henry E. Autrey granting motion for extension of time to answer Plaintiff's complaint until 7/3/03 [16-1] (cc: all counsel) (MJM) (Entered: 06/26/2003)
06/26/2003	16	MOTION by defendant Archer Daniels Co. for extension of time to answer Plaintiff's complaint until 7/3/03 (MJM) (Entered: 06/26/2003)



06/26/2003	16	ATTORNEY APPEARANCE for defendant Archer Daniels Co. by Stephen H. Rovak, Michael T. Marrah, Kirill Y. Abramov (MJM) (Entered: 06/26/2003)
06/23/2003	15	ATTORNEY APPEARANCE for plaintiff Solae, L.L.C. by David F. Ries (MJM) (Entered: 06/24/2003)
06/23/2003	<u>14</u>	RULED DOCUMENT by Honorable Henry E. Autrey granting motion for attorney David F. Ries to appear pro hac vice [10-1] (cc: all counsel) (MJM) (Entered: 06/24/2003)
06/20/2003	13	RECEIPT # S2003-008425 in the amount of \$ 25.00 for Attorney admission for Patricia Carson (MJM) (Entered: 06/24/2003)
06/20/2003	12	MOTION by plaintiff Solae, L.L.C. for attorney Patricia A. Carson to appear pro hac vice (MJM) (Entered: 06/24/2003)
06/19/2003	11	RECEIPT # S2003-008389 in the amount of \$ 25.00 for Attorney admission for David L. Ries (MJM) (Entered: 06/20/2003)
06/19/2003	10	MOTION by plaintiff Solae, L.L.C. for attorney David F. Ries to appear pro hac vice (MJM) (Entered: 06/20/2003)
06/12/2003	9	RETURN OF SERVICE executed upon defendant Archer Daniels Co. on 6/4/03 by personal service by serving Bonnie Hunt, Registered Agent (MJM) (Entered: 06/13/2003)
06/11/2003	8	RETURN OF SERVICE executed upon defendant Amerifit Nutrition on 6/10/03 by personal service by serving Luz Marquez (MJM) (Entered: 06/12/2003)
06/05/2003	<u>7</u>	RULED DOCUMENT by Honorable Henry E. Autrey granting motion for order to substitute exhibit a of the complaint filed 6/3/03 [6-1] (cc: all counsel) (MJM) (Entered: 06/05/2003)
06/04/2003	6	MOTION by plaintiff Solae, L.L.C. for order to substitute exhibit a of the complaint filed 6/3/03 substituting exhibit a attached (MJM) (Entered: 06/05/2003)
06/03/2003		REPORT on the filing or determination of an action regarding Patent (cc: form mailed to register) (KLK) (Entered: 06/03/2003)
06/03/2003	5	NOTICE OF PRIVATE PROCESS SERVER; Process Server: Markell & Associates (KLK) (Entered: 06/03/2003)
06/03/2003	4	DISCLOSURE of Corporation Interests Certificate Parent companies:

		E.I. du Pont de Nemours and Company and Bunge Ltd. Subsidiaries: So Good International, Fuji Protein Technologies, DuPont Shineway Louhe Protein Company Limited, and Solae do Brasil. Publicly held company: E.I. du Pont de Nemours and Company and Bunge Ltd. by plaintiff Solae, L.L.C. (KLK) (Entered: 06/03/2003)
06/03/2003	3	TRACK INFORMATION STATEMENT filed by plaintiff Solae, L.L.C. track 3 preferred (KLK) (Entered: 06/03/2003)
06/03/2003	2	RECEIPT # S2003-007859 in the amount of \$ 150.00 for filing fee (KLK) (Entered: 06/03/2003)
06/03/2003	1	COMPLAINT; # Summons Issued: 2 # Days to Respond: 20 # Counts: 1 Disclosure of Corp Cert issued to: deft; jury demand exhibits attached: A-B (KLK) (Entered: 06/03/2003)

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<b>Transaction Receipt</b>
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<b>PACER Login:</b>	fh0018	<b>Client Code:</b>	07579-0015-01000
<b>Description:</b>	Docket Report	<b>Case Number:</b>	4:03-cv-00732-HEA
<b>Billable Pages:</b>	6	<b>Cost:</b>	0.42

**U.S. District Court  
Eastern District of Missouri (LIVE) (St. Louis)  
CIVIL DOCKET FOR CASE #: 4:03-cv-01595-HEA**

Solae, L.L.C. v. Archer Daniels Midland Company et al

Assigned to: Honorable Henry E. Autrey

Referred to:

Demand: \$

Lead Docket: 4:03-cv-00732-HEA

Related Cases: None

Case in other court: None

Cause: 15:1126 Patent Infringement

Date Filed: 11/04/03

Jury Demand: Both

Nature of Suit: 830 Patent

Jurisdiction: Federal Question

Filing Date	#	Docket Text
04/28/2004	<u>33</u>	ORDER REASSIGNING CASE. Case reassigned to Judge Henry E. Autrey for all further proceedings. Judge Rodney W. Sippel no longer assigned to case, Cases associated.. Signed by Judge Henry E. Autrey on 4/28/04. (MJM, ) (Entered: 04/28/2004)
04/27/2004		Docket Text ORDER re <u>31</u> Consent MOTION for Leave to File a Third Supplemental Complaint filed by Solae, L.L.C. ORDERED GRANTED Signed by Judge Rodney W. Sippel on 4/27/04. (LAH, ) (Entered: 04/27/2004)
04/26/2004	<u>32</u>	AMENDED COMPLAINT ( <i>Third Supplemental Complaint</i> ) against defendant(s)all defendants Jury Demand, ( <i>Third Supplemental Complaint</i> ), filed by Solae, L.L.C.. (Attachments: # <u>1</u> Exhibit 1 U.S. Patent 6,642,212# <u>2</u> Exhibit 2 U.S. Patent 6,664,382# <u>3</u> Exhibit 3 U.S. Patent 6,680,381# <u>4</u> Exhibit 4 U.S. Patent 6,706,292)(Goerisch, C.) (Entered: 04/26/2004)
04/26/2004	<u>31</u>	Consent MOTION for Leave to File a Third Supplemental Complaint by Plaintiff Solae, L.L.C.. (Goerisch, C.) (Entered: 04/26/2004)
04/26/2004	<u>30</u>	NOTICE of Filing of Motion to consolidated by Plaintiff Solae, L.L.C., Defendants Archer Daniels Midland Company, Amerifit Nutrition, Inc., Counter Claimants Amerifit Nutrition, Inc., Archer Daniels Midland Company, Counter Defendants Solae, L.L.C., Solae, L.L.C. with case number 03-732 (Attachments: # <u>1</u> Exhibit 1) (Goerisch, C.) (Entered: 04/26/2004)
04/21/2004	<u>29</u>	<i>Plaintiff's</i> ANSWER to Counterclaim of Defendant Amerifit Nutrition, Inc. by Solae, L.L.C..(Goerisch, C.) (Entered: 04/21/2004)
04/21/2004	<u>28</u>	<i>Plaintiff's</i> ANSWER to Counterclaim of Defendant Archer Daniels Midland Company by Solae, L.L.C..(Goerisch, C.) (Entered: 04/21/2004)

		04/21/2004)
04/07/2004	<u>27</u>	RULE 16 ORDER: This case is assigned to Track 2: Standard; Joint Scheduling Plan due by 4/30/2004; Rule 16 Conference set for 5/7/2004 10:00 AM in Chambers before Honorable Rodney W. Sippel; Signed by Judge Rodney W. Sippel on 4/7/04(CMA) (Entered: 04/07/2004)
04/01/2004	<u>26</u>	ANSWER to Amended Complaint, COUNTERCLAIM against plaintiff Solae, L.L.C. by Archer Daniels Midland Company. (Abramov, Kirill) (Entered: 04/01/2004)
04/01/2004	<u>25</u>	ANSWER to Amended Complaint, COUNTERCLAIM against plaintiff Solae, L.L.C. by Amerifit Nutrition, Inc..(Abramov, Kirill) (Entered: 04/01/2004)
03/02/2004	<u>24</u>	ORDER - IT IS HEREBY ORDERED that Defendant's Consent Motion for Extension of Time to File their Responsive Pleading <u>23</u> is GRANTED. Defendant's Responsive Pleading shall be filed no later than April 1, 2004. IT IS FURTHER ORDERED that an additional extension will only be granted if presented in person by lead counsel during informal matters with this court.Signed by Judge Rodney W. Sippel on 3/2/04. (LAH, ) (Entered: 03/02/2004)
03/01/2004	<u>23</u>	Consent MOTION for Extension of Time to File <i>Responsive Pleading</i> ;Extension to file the following: Responsive Pleading ;Proposed extension date April 1, 2004 by Defendants Amerifit Nutrition, Inc., Archer Daniels Midland Company. (Abramov, Kirill) (Entered: 03/01/2004)
02/10/2004	<u>22</u>	ORDER: IT IS HEREBY ORDERED that Pltf's Motion for Leave to File Second Supplemental Complaint is GRANTED; Signed by Judge Rodney W. Sippel on 2/10/04(CMA) (Entered: 02/10/2004)
02/10/2004		Docket Text ORDER re <u>21</u> MOTION for Leave to Appear Pro Hac Vice Thomas F. Fleming filed by Solae, L.L.C. ; ORDERED GRANTED. Signed by Judge Rodney W. Sippel on 2/10/04. (ARL) (Entered: 02/10/2004)
02/06/2004	<u>21</u>	MOTION for Leave to Appear Pro Hac Vice Thomas F. Fleming by Plaintiff Solae, L.L.C.. (KCM, ) (Entered: 02/09/2004)
02/06/2004		Receipt # S2004-004022 in the amount of \$25.00 for ATTORNEY ADM. FEE - PHV on behalf of LEWIS, RICE & FINGERSH. (CSW,) (Entered: 02/06/2004)
02/02/2004		Docket Text ORDER - re <u>20</u> Consent MOTION for Extension of

		Time to File Responsive Pleading; Extension to file the following: Responsive Pleading up to and including March 1, 2004 filed by Archer Daniels Midland Company, Amerifit Nutrition, Inc. ; ORDERED GRANTED. Signed by Judge Rodney W. Sippel on 2/2/04. (LAH, ) (Entered: 02/02/2004)
01/30/2004	<u>20</u>	Consent MOTION for Extension of Time to File <i>Responsive Pleading</i> ;Extension to file the following: Responsive Pleading ;Proposed extension date March 1, 2004 by Defendants Amerifit Nutrition, Inc., Archer Daniels Midland Company. (Abramov, Kirill) (Entered: 01/30/2004)
01/29/2004	<u>19</u>	AMENDED COMPLAINT ( <i>SECOND SUPPLEMENTAL COMPLAINT</i> ) against defendant(s) Amerifit Nutrition, Inc., Archer Daniels Midland Company JURY Demand, ( <i>SECOND SUPPLEMENTAL COMPLAINT</i> ), filed by Solae, L.L.C.. Related document: <u>18</u> MOTION for Leave to File Second Supplemental Complaint filed by Solae, L.L.C.. (Attachments: # <u>1</u> Exhibit Appendix)(Goerisch, C.) (Entered: 01/29/2004)
01/29/2004	<u>18</u>	MOTION for Leave to File Second Supplemental Complaint by Plaintiff Solae, L.L.C.. (Goerisch, C.) (Entered: 01/29/2004).
01/22/2004		Docket Text ORDER re <u>17</u> MOTION for Leave to Appear Pro Hac Vice Patricia A. Carson filed by Solae, L.L.C. ; ORDERED GRANTED. Signed by Judge Rodney W. Sippel on 1/22/04. (ARL, ) (Entered: 01/22/2004)
01/16/2004	<u>17</u>	MOTION for Leave to Appear Pro Hac Vice (Attorney Patricia A. Carson) by Plaintiff Solae, L.L.C. (Receipt No: S2004-3243) (CMA) (Entered: 01/21/2004)
01/16/2004		Receipt # S2004-003243 in the amount of \$25.00 for ATTORNEY ADM. FEE - PHV on behalf of CARSON, PATRICIA A.. (CSW,) (Entered: 01/21/2004)
01/13/2004	<u>16</u>	Letter to attorney Donald R. Banowit from Clerk Re: Admission Pro Hac Vice (CMA) (Entered: 01/13/2004)
01/13/2004	<u>15</u>	Letter to attorney Timothy J. Shea, Jr. from Clerk Re: Admission Pro Hac Vice (CMA) (Entered: 01/13/2004)
01/13/2004	<u>14</u>	Letter to attorney David K. S. Cornwell from Clerk Re: Admission Pro Hac Vice (CMA) (Entered: 01/13/2004)
01/13/2004		Docket Text ORDER re <u>13</u> Consent MOTION for Extension of Time to File <i>Responsive Pleading</i> ; Extension to file the following:

		Responsive Pleading; Proposed extension date January 30, 2004 filed by Archer Daniels Midland Company, Amerifit Nutrition, Inc.; ORDERED Granted; Signed by Judge Rodney W. Sippel on 1/13/04 (CMA) (Entered: 01/13/2004)
01/12/2004	<u>13</u>	Consent MOTION for Extension of Time to File <i>Responsive Pleading</i> ;Extension to file the following: Responsive Pleading ;Proposed extension date January 30, 2004 by Defendants Amerifit Nutrition, Inc., Archer Daniels Midland Company. (Attachments: # <u>1</u> Text of Proposed Order)(Abramov, Kirill) (Entered: 01/12/2004)
01/06/2004	<u>12</u>	ENTRY of Appearance by Kirill Y. Abramov Defendant Amerifit Nutrition, Inc.. (Abramov, Kirill) (Entered: 01/06/2004)
01/06/2004	<u>11</u>	NOTICE by Defendant Amerifit Nutrition, Inc. of <i>Withdrawal of Counsel</i> (Cassetta, Richard) (Entered: 01/06/2004)
12/30/2003		Docket Text ORDER - GRANTING re <u>10</u> MOTION for Extension of Time to File Responsive Pleading ;Extension to file the following: Responsive Pleading ;Proposed extension date January 13, 2004 filed by Archer Daniels Midland Company, Amerifit Nutrition, Inc. Signed by Judge Rodney W. Sippel on 12/30/03. (LAH, ) (Entered: 12/30/2003)
12/29/2003	<u>10</u>	MOTION for Extension of Time to File <i>Responsive Pleading</i> ;Extension to file the following: Responsive Pleading ;Proposed extension date January 13, 2004 by Defendants Amerifit Nutrition, Inc., Archer Daniels Midland Company. (Attachments: # <u>1</u> Text of Proposed Order)(Abramov, Kirill) (Entered: 12/29/2003)
12/29/2003	<u>9</u>	AMENDED COMPLAINT against defendant(s)all defendants , filed by Solae, L.L.C.. (Attachments: # <u>1</u> Exhibit 1# <u>2</u> Exhibit 2)(Goerisch, C.) (Entered: 12/29/2003)
12/29/2003		Docket Text ORDER re <u>8</u> MOTION for Leave to File First Supplemental Complaint filed by Solae, L.L.C. ; ORDERED GRANTED. Signed by Judge Rodney W. Sippel on 12/29/03. (Please note - Plaintiff needs to electronically file the First Supplemental Complaint and Exhibits)(ARL, ) (Entered: 12/29/2003)
12/23/2003	<u>8</u>	MOTION for Leave to File First Supplemental Complaint by Plaintiff Solae, L.L.C.. (Attachments: # <u>1</u> First Supplemental Complaint# <u>2</u> Exhibit 1 to Solae's First Supplemental Complaint# <u>3</u> Exhibit 2 to Solae's First Supplemental Complaint)(Goerisch, C.) (Entered: 12/23/2003)

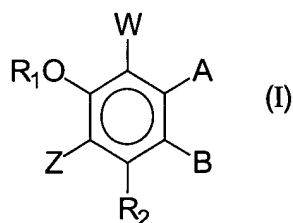
12/12/2003		Docket Text ORDER - GRANTING Joint Motion to File Responsive Pleading On or Before Dec. 29, 2003 by defts [Doc. #7]Signed by Judge Rodney W. Sippel (LAH, ) (Entered: 12/12/2003)
12/11/2003	<u>7</u>	Joint MOTION for Leave to File Responsive Pleading On or Before December 29, 2003 by Defendants Amerifit Nutrition, Inc., Archer Daniels Midland Company. (Attachments: # <u>1</u> Text of Proposed Order Proposed Order)(Abramov, Kirill) (Entered: 12/11/2003)
11/25/2003	<u>6</u>	CJRA ORDER (jgw). Case reassigned to Judge Rodney W. Sippel for all further proceedings (DLB, ) (Entered: 11/25/2003)
11/21/2003	<u>5</u>	NOTICE of Filing of Motion to consolidated by Defendants Amerifit Nutrition, Inc., Archer Daniels Midland Company with case number 4:03cv732HEA (Attachments: # <u>1</u> Exhibit A)(Abramov, Kirill) (Entered: 11/21/2003)
11/07/2003	<u>4</u>	REPORT to Commissioner of filing or determination of an action regarding Patent (SAJ, ) (Entered: 11/07/2003)
11/04/2003		Receipt # S2004-001226 in the amount of \$150.00 for CIVIL FILING FEE, CIVIL FILING FEE-2ND 1/2 on behalf of LEWIS, RICE & FINGERSH. (CSW,) (Entered: 12/13/2003)
11/04/2003	<u>3</u>	DISCLOSURE OF CORPORATION INTERESTS CERTIFICATE by Plaintiff Solae, L.L.C. Parent companies: Solae Holdings LLC, the members of which are E.I. du Pont de Nemours and Company and Central Soya Company, Inc (a wholly owned subsidiary of Bunge Ltd.), Subsidiaries: So Good International, Fuji Protein Technologies, DuPont Shineway Louhe Protein Company Limited, Solae do Brasil., Publicly held company: E.I. du Pont de Nemours and Company Bunge, Ltd.,. (SAJ, ) (Entered: 11/07/2003)
11/04/2003	<u>2</u>	NOTICE OF PRIVATE PROCESS SERVER; by Plaintiff Solae, L.L.C. Process Server Markell & Associates, (SAJ, ) (Entered: 11/07/2003)
11/04/2003	<u>1</u>	COMPLAINT against defendant Amerifit Nutrition, Inc., Archer Daniels Midland Company 2 Summons(es) issued, in the amount of \$150, Consents issued 3, Disclosure of Corporate Interest issued to Deft, Jury Demand,, filed by Solae, L.L.C.. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Civil Cover Sheet # <u>3</u> Original Filing Form)(SAJ, ) (Entered: 11/07/2003)

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09/27/2004 17:41:54			
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10. (New) A process for the manufacture of a medicament for the treatment, amelioration, prophylaxis and/or prevention of UV induced immunosuppression in the skin, and UV induced skin disorders, which process comprises providing a compound of Formula I:



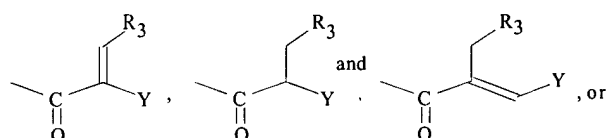
in which

Z is H,

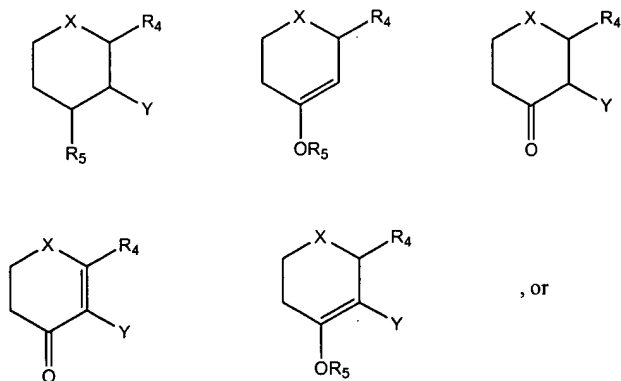
R<sub>1</sub> is H, or R<sub>A</sub>CO where R<sub>A</sub> is C<sub>1-10</sub> alkyl or an amino acid,

R<sub>2</sub> is H, OH, or OR<sub>B</sub> where R<sub>B</sub> is an amino acid or COR<sub>A</sub> where R<sub>A</sub> is as previously defined,

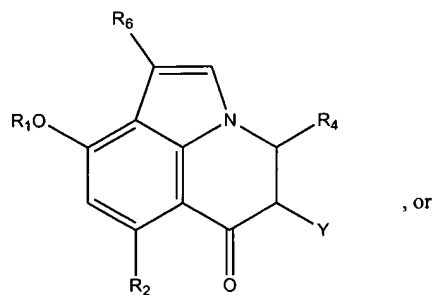
W is H, A is H or OH, and B is selected from



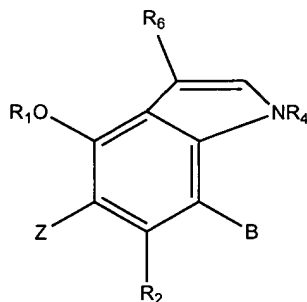
W is H, and A and B taken together form a six membered ring selected from



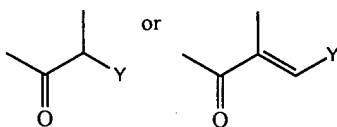
W, A, and B taken with the groups with which they are associated comprise



W and A taken together with the groups with which they are associated comprise



and B is



wherein

$R_3$  is H,  $COR_A$  where  $R_A$  is as previously defined,  $CO_2R_C$  where  $R_C$  is  $C_{1-10}$  alkyl, or  $COR_B$

where  $R_B$  is as previously defined,

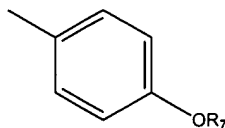
$R_4$  is H,  $COR_D$  where  $R_D$  is H, OH,  $C_{1-10}$  alkyl or an amino acid,  $CO_2R_C$  where  $R_C$  is as previously defined,  $COR_E$  where  $R_E$  is H,  $C_{1-10}$  alkyl or an amino acid, COOH,  $COR_C$  where  $R_C$  is as previously defined, or  $CONHR_E$  where  $R_E$  is as previously defined,

$R_5$  is H,  $\text{CO}_2R_C$  where  $R_C$  is as previously defined, or  $\text{COR}_C\text{OR}_E$  where  $R_C$  and  $R_E$  are as previously defined, and with the proviso that when the two  $R_5$  groups are attached to the same group, they are identical or different,

$R_6$  is H or hydroxy  $\text{C}_{1-10}$  alkyl,

X is O, N or S, and

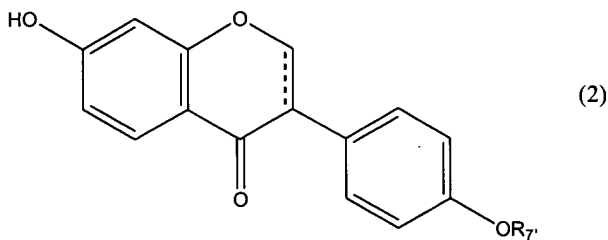
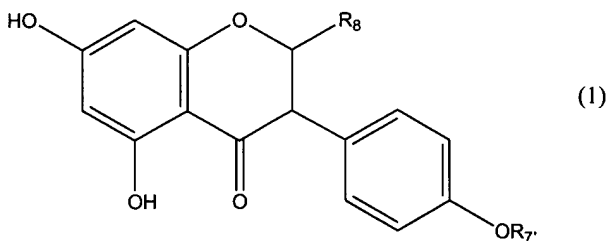
Y is

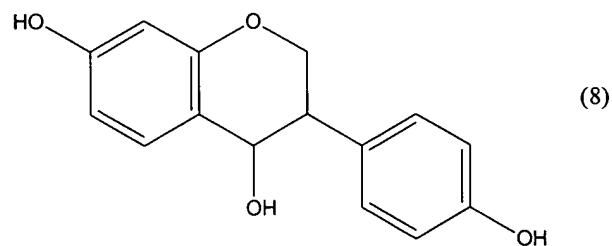
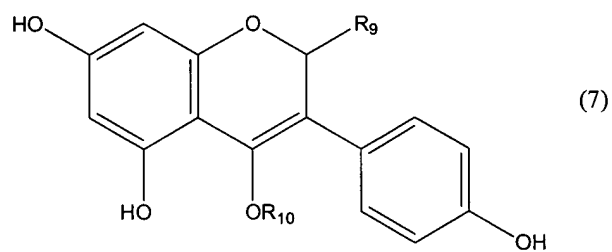
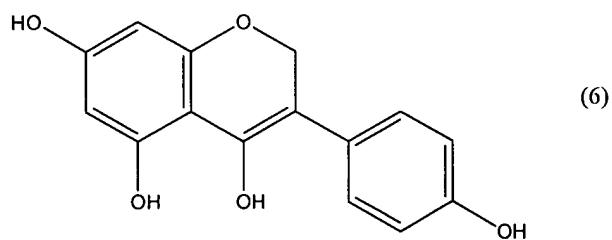
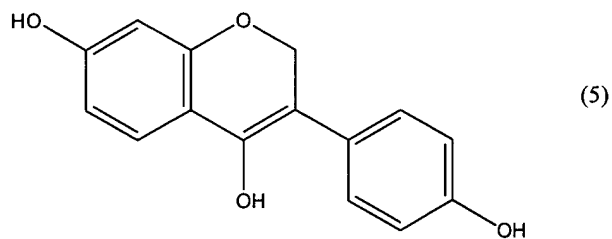
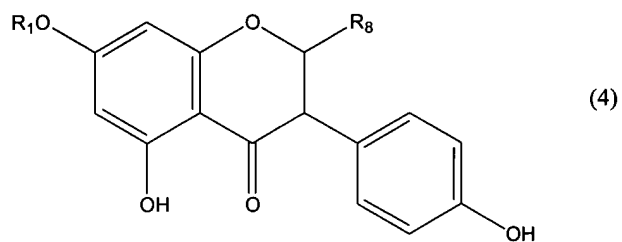
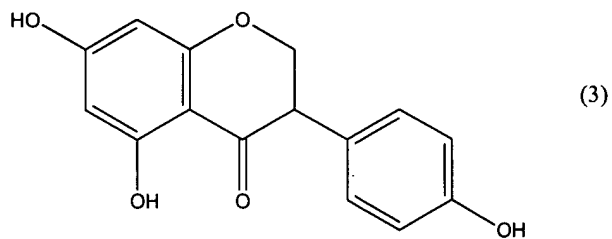


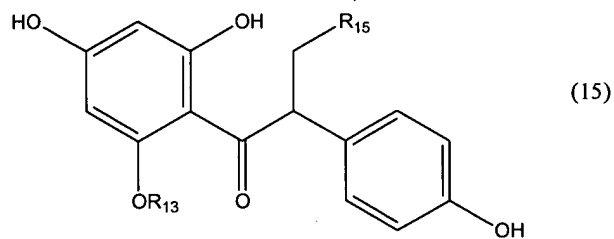
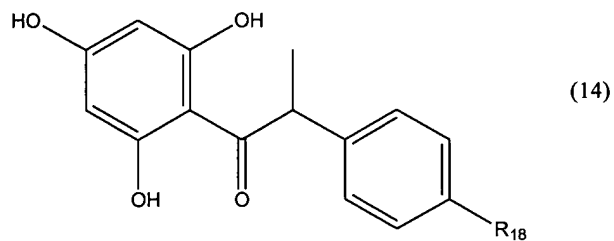
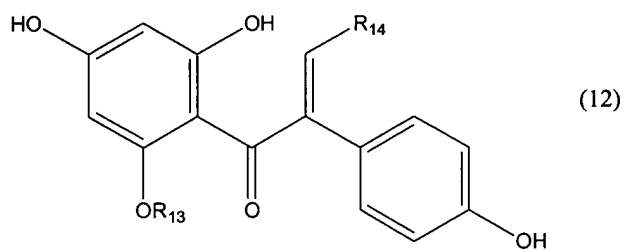
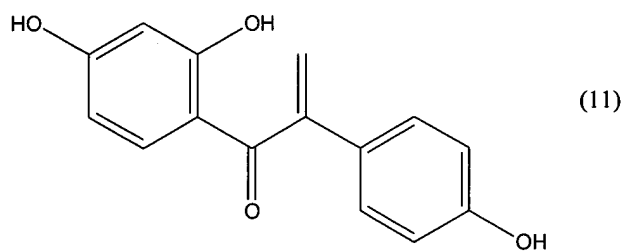
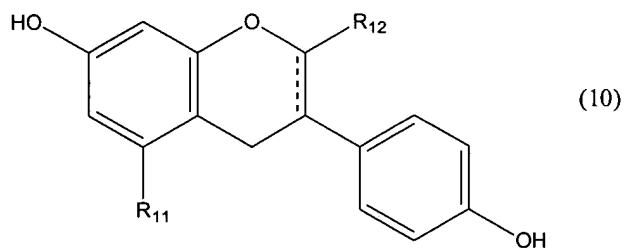
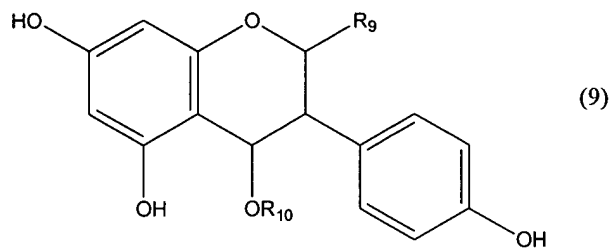
where  $R_7$  is H, or  $\text{C}_{1-10}$  alkyl,

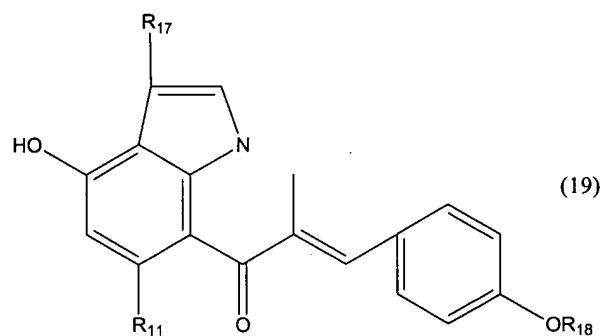
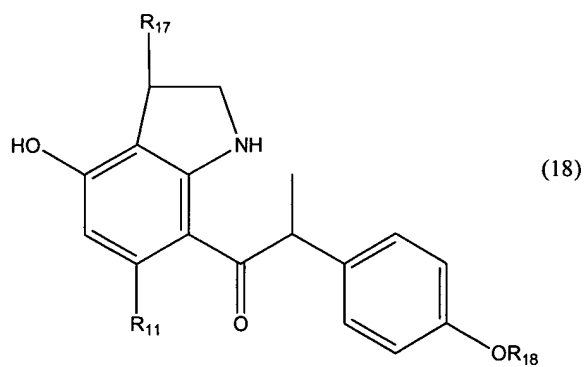
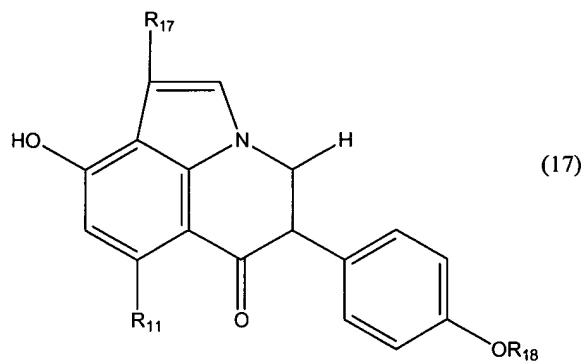
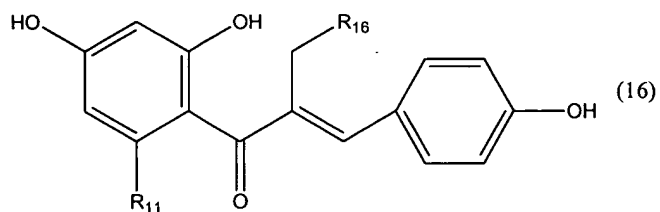
and blending said compound with one or more dermatologically acceptable carriers so as to provide a dermatologically acceptable composition.

11. (New) A process according to claim 1 wherein the compound of Formula I is selected from:









wherein

R<sub>7</sub> is H or CH<sub>3</sub>,

R<sub>8</sub> is COR<sub>D</sub> where R<sub>D</sub> is as previously defined, or H,

$R_9$  is  $\text{CO}_2R_C$  or  $\text{COR}_E$  where  $R_C$  and  $R_E$  are as previously defined,

$R_{10}$  is  $\text{COR}_C$  or  $\text{COR}_C\text{OR}_E$  where  $R_C$  and  $R_E$  are as previously defined,

$R_{11}$  is H or OH,

$R_{12}$  is H, COOH,  $\text{CO}_2R_C$  where  $R_C$  is as previously defined, or  $\text{CONHR}_E$  where  $R_E$  is as previously defined,

$R_{13}$  is OH,  $\text{OR}_B$  where  $R_B$  is as previously defined, or  $\text{COR}_A$  where  $R_A$  is as previously defined,

$R_{14}$  is H, or  $\text{COR}_A$  where  $R_A$  is as previously defined,

$R_{15}$  is  $\text{COR}_A$  where  $R_A$  is as previously defined,

$R_{16}$  is H,  $\text{COR}_B$  or  $\text{CO}_2R_C$  where  $R_B$  and  $R_C$  are as previously defined,

$R_{17}$  is H or hydroxy  $\text{C}_{1-10}$  alkyl,

$R_{18}$  is H or  $\text{C}_{1-10}$  alkyl,

and “---” represents either a single bond or a double bond.

12. (New) A process for the manufacture of a medicament for the treatment, amelioration, prophylaxis and/or prevention of UV induced immunosuppression in the skin, and UV induced skin disorders, which process comprises providing an extract of soy or clover and blending said extract with one or more dermatologically acceptable carriers so as to provide a dermatologically acceptable composition.

13. (New) A process according to claim 10 which further includes  $\beta$ -(1,3)(1,6)-glucan.

14. (New) The process according to claim 11 wherein the compounds of Formula (I) are genistein, equol, dehydroequol, tetrahydrodaidzein, and O-desmethyl-angolensin.

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